United Nations A/56/356

General Assembly

Distr.: General
18 September 2001

Original: English

Fifty-sixth session
Item 140 of the provisional agenda*
Joint Inspection Unit

Report of the Joint Inspection Unit on experience with the follow-up system on Joint Inspection Unit reports and recommendations

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Joint Inspection Unit entitled "Experience with the follow-up system for Joint Inspection Unit reports and recommendations".

* A/56/150.

** The footnote requested by the General Assembly in resolution 54/248 was not included in the submission.

01-53967 (E) 031001

Experience with the follow-up system for Joint Inspection Unit reports and recommendations

Report of the Joint Inspection Unit

Contents

Chapter		*Paragraphs*	*Page*
I.	Background	1–4	3
II.	Implementation of the follow-up system	5–57	4
	A. General issues	5–9	4
	B. Organizations that have acted formally on the follow-up system	10–28	6
	C. Status of consideration of the follow-up system in other participating organizations	29–57	9
	1. Specialized agencies and the International Atomic Energy Agency	29–45	9
	2. United Nations funds and programmes	46–57	12
III.	Suggested action by the General Assembly	58	14

I. Background

1. The lack of a solid mechanism for follow-up on Joint Inspection Unit (JIU) reports and recommendations, with a systematic tracking of the status of implementation of recommendations, has been a long-standing concern of Member States as well as of the Unit itself. It has been the subject of a number of General Assembly resolutions, including:

(a) Resolution 2924 B (XXVII) of 24 November 1972, in which the General Assembly requested the Secretary-General to submit to it an annual report on the implementation of JIU recommendations. That request was repeated in resolution 32/199 of 21 December 1977;

(b) Resolution 41/213 of 19 December 1986, in which the General Assembly approved the report of the Group of High-level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (Group of 18). The Group of 18 recommended, among other things, that the competent and relevant bodies and organizations should ensure that JIU reports were adequately dealt with and the recommendations approved by them implemented, and that the other legislative organs of the organizations of the system should be invited, as called for in Assembly resolution 38/229 of 20 December 1983, when considering reports of the Unit, to indicate those recommendations they approved and those they did not;

(c) Resolution 42/218 of 21 December 1987, in which the General Assembly, being convinced that more systematic follow-up on the implementation of recommendations of JIU would increase the usefulness of the inspection function, particularly in encouraging constructive dialogue between the Unit and the various organizations of the United Nations system, requested the Unit to include in its annual report a section on its findings regarding the implementation of its recommendations;

(d) Resolution 44/184 of 19 December 1989, in which the General Assembly specified that the Secretary-General's report on implementation of JIU recommendations should include the recommendations of the Unit and related decisions of the Assembly and other governing bodies;

(e) Resolution 48/221 of 23 December 1993, in which the General Assembly called upon JIU to follow up on the implementation of its recommendations and to include the relevant information regularly in its annual reports;

(f) Most recently, resolution 50/233 of 7 June 1996, in which the General Assembly, having stressed that "the impact of the Unit on the cost-effectiveness of activities within the United Nations system is a shared responsibility of the Member States, the Unit and the secretariats of the participating organizations", encouraged "the Unit to continue to take the necessary steps to achieve a punctual and systematic follow-up of its recommendations as approved by the legislative organs of participating organizations".

2. Reflecting the concept of a shared responsibility stressed in resolution 50/233, JIU prepared a document entitled "Towards a more effective system of follow-up on reports of the Joint Inspection Unit", which was included as an annex to the annual report of the Unit for the period from 1 July 1996 to 30 June 1997.[1] The system is based on the recognition that the value of a JIU report depends on effective follow-

up, which requires: (a) that the reports be given active and serious consideration and concrete action on the recommendations be taken by the legislative organs of the participating organizations; and (b) that there be expeditious implementation of the approved/accepted recommendations, with full reporting on the implementation measures and analysis on the resulting impact. The document therefore proposed procedures for tracking and reporting on these actions.

3. As a complement to the proposed follow-up system, JIU also prepared, during the course of 1999-2000, a series of notes on the handling of JIU reports by individual participating organizations, which were addressed to their respective executive heads. The notes were mainly intended to highlight shortcomings and best practices for the handling of reports and to facilitate the implementation of those elements of the proposed follow-up system falling within the competence of the secretariats of the participating organizations.

4. Meanwhile, the General Assembly by its resolution 54/16 of 29 October 1999, endorsed the follow-up system and invited the Unit to include in its annual reports approved recommendations that have not been implemented and requested that the system be implemented expeditiously and that the Unit report on experience with the system, including action taken and comments made by participating organizations, to the General Assembly at its fifty-sixth session. The present report has been prepared in response to that request.

II. Implementation of the follow-up system

A. General issues

5. Experience has shown that the major obstacle for the implementation of the follow-up system is the lack of specific legislative action on JIU recommendations. In particular, legislative organs often content themselves with "taking note" of the conclusions and recommendations of JIU reports, without clearly expressing whether or not these are "approved".

6. Unless clear approval action is taken by legislative organs, practically no effective follow-up is possible for the reasons indicated below:

(a) Under article 12 of the JIU statute, which constitutes the basis for implementation of JIU recommendations, "recommendations ... approved by ... competent organs" are generally interpreted as referring only to those approved through legislative action and not to those addressed to and accepted by executive heads without legislative action (see box below);

(b) An action of "take note", irrespective of interpretation of the term, does not legally bind the secretariat to ensuring an effective implementation or follow-up (see box below).

Implications of the items "Recommendations ... approved by ... competent organs" under article 12 of the JIU statute and "take note" used in resolutions and decisions of legislative organs

In early April 2001, JIU sent letters to all participating organizations requesting their views (interpretation) with regard to the terms "recommendations ... approved by ... competent organs" and "take note".

The replies received indicated that there were divergences in the organizations' understanding of both terms. While a majority stressed that "recommendations ... approved by ... competent organs" do not, from a legal viewpoint, include those addressed to and accepted by an executive head but only those approved through legislative action, others asserted, on the contrary, that "competent organ", under article 12 of the JIU statute, can include the secretariat. Similarly, for some organizations, the term "take note" clearly constituted approval (including, according to the United Nations Legal Counsel,[2] cases requiring legislative action but having no financial implications) or simply implied that there was no disagreement with the recommendations. Subsequently, however, by its decision 55/488, adopted on 7 September 2001, the General Assembly reiterated "that the terms 'take note of' and 'notes' are neutral terms that constitute neither approval nor disapproval", which is also the interpretation of several other organizations.

7. In the letter sent in April 2001 to all participating organizations, JIU also requested them to provide the necessary information requested by the General Assembly with regard to approved recommendations that have not been implemented. While several respondents indicated that there were no approved recommendations that had not been implemented, others noted that they could not report on implementation in the absence of a clearly agreed follow-up system.

8. From the foregoing, the following points can be flagged in order to ensure an effective follow-up of JIU reports and recommendations:

(a) It is necessary for the legislative organs to take specific action, such as approval or endorsement, on the JIU recommendations requiring legislative action by avoiding vague expressions such as "take note". In order to facilitate this, it is important for the secretariats to indicate clearly, when submitting JIU reports to the legislative organs together with their comments, which of the recommendations, in their opinion, need specific legislative action and which can be implemented by the executive heads without legislative action. This does not, however, preclude that recommendations addressed to the executive heads and their comments thereon may also be reviewed by the legislative organs, should they so wish;[3]

(b) It is also important, in this context, to reach a common understanding that recommendations addressed to and accepted by the executive heads must also be implemented and are subject to follow-up.[3]

9. Under the respective understandings reached or being discussed with participating organizations regarding follow-up of JIU reports and recommendations, as discussed in sections B and C below, it is expected that the interpretation of the term "recommendations ... approved by ... competent organs" will be clarified and that the ambiguous term "take note" will be eliminated. This, in turn, should allow JIU to report with greater ease and accuracy on the implementation of JIU reports/recommendations or lack thereof.

B. Organizations that have acted formally on the follow-up system

10. In addition to the United Nations, the follow-up system has already been acted upon formally by the legislative organs of four specialized agencies, the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Industrial Development Organization (UNIDO) and the World Health Organization (WHO). Among these four specialized agencies, UNESCO, UNIDO and WHO have de facto endorsed the follow-up system approved by the General Assembly in its resolution 54/16. In the case of ILO, however, the nature of the decision differs from those taken at UNESCO, UNIDO and WHO, reflecting partly the complexity relating to the tripartite nature of ILO's governance structure. While the process of discussing, in particular with WHO and UNIDO, and of adopting new follow-up procedures for reports by the JIU was in itself beneficial, it is still too early to judge whether these new procedures will actually ensure an effective and more systematic follow-up to the JIU reports. Details are provided in the following paragraphs.

United Nations

11. Since the General Assembly endorsed the JIU proposed follow-up system in October 1999, 12 JIU reports have been submitted to the Secretary-General for action. Requirements regarding the timely provision of comments on the reports by the Secretary-General and/or the Administrative Committee on Coordination, in accordance with article 11, paragraph 4, of the JIU statute, have been largely met, as has the requirement to list JIU reports under the appropriate substantive agenda items of the programme of work.

12. In accordance with the provisions of a number of resolutions, including 2924 B (XXVII) and 44/184, as well as decision 50/470 of 23 December 1995, the Secretary-General continues to submit a report regularly to the General Assembly on the implementation of the recommendations of JIU. The last such report was submitted on 16 August 1999 (A/54/223), and a report is being submitted to the General Assembly at its fifty-sixth session (A/56/135). These reports, however, do not provide systematic and detailed coverage of all approved or accepted JIU recommendations, as required by the follow-up system, nor, indeed, do they address all JIU reports of relevance to the United Nations, but rather a number of reports, the choice of which appears arbitrary in the absence of any explanation of selection criteria. Since the adoption by the General Assembly of the follow-up system, no formal mechanism has yet been put in place with regard to specific requirements, such as expeditious implementation of approved/accepted recommendations and full and timely reporting.

13. One related measure taken recently by the Secretary-General has been the establishment of the Accountability Panel, with effect from 1 November 2000, for the purpose of strengthening accountability in the Secretariat (ST/SGB/2000/14). The Accountability Panel will ensure that the findings of oversight bodies, including JIU, are addressed by the Secretariat "from a systematic perspective". Its main functions include a review of the analysis of significant management issues to be prepared annually by the Department of Management, based on the reports of the oversight bodies, and to identify actions required to remedy accountability issues raised. The Unit welcomes this initiative and believes that the Panel can play a role in ensuring that appropriate action is taken by the Secretariat in respect of those recommendations addressed to and accepted by the Secretary-General.

International Labour Organization

14. At its 273rd session in November 1998, the ILO Governing Body took a decision to defer consideration of the JIU proposed follow-up system until the General Assembly had acted thereon.

15. The Unit sent a note to the Director General of ILO (JIU/NOTE/99/3) in September 1999, summarizing the practices of ILO handling of JIU reports and presenting concrete recommendations for improving the consideration of JIU reports by the ILO Governing Body. Through its covering letter, JIU sought to meet with the Executive Head and other officials of ILO to discuss details of this issue and to see to what extent a common understanding could be reached.

16. A first preliminary meeting took place in December 1999, at which the Unit proposed a working meeting to discuss those issues that might have to be agreed upon bilaterally, in particular with regard to a methodology for determining the relevance of a JIU report and the subsequent tracking of its recommendations. The ILO secretariat, in the meantime, presented its unilateral comments on the follow-up issues to the Governing Body at its 277th session in March 2000,[4] without addressing the issues mentioned above. The ILO Governing Body, upon the recommendation of its Programme, Financial and Administrative Committee, subsequently "... agreed that the JIU proposals concerning follow-up on its reports be implemented by ILO in the manner indicated in [the secretariat] document,[4] although, in the opinion of the Unit, the content of this document basically aims at maintaining the status quo.

17. Further, in May 2001, during the process of gathering data for the purposes of the present report, the Unit was informed by the ILO Governing Body that the organization had not yet approved a follow-up system on the JIU's recommendations and that it was not possible to state if a particular JIU recommendation has been implemented or not. Therefore, while the follow-up system has been acted upon by the Governing Body, specific issues remain to be clarified and agreed upon, necessitating continued dialogue between the ILO secretariat and JIU.

United Nations Educational, Scientific and Cultural Organization

18. UNESCO's long-standing practices for the distribution of JIU reports, for selecting reports to be taken up by the Executive Board and for allocating sufficient time for the examination of those reports by the Board can be considered as among the best.

19. In addition, at its 154th session in April/May 1998, the Executive Board, having examined the JIU annual report,[1] invited the Director-General to submit to it a regular report on the implementation of the recommendations made by JIU concerning UNESCO, as approved by the Board, and requested the Director-General to report to it at its 155th session in October/November 1998 on UNESCO's cooperation with JIU. At its 155th session, having examined the subsequent report submitted by the Director-General, the Executive Board of UNESCO approved guidelines for the organization's cooperation with JIU, indicating, inter alia, that the Director-General should invite representatives of JIU to attend all public meetings of the General Conference and the Executive Board and their subsidiary bodies as observers and to present their reports to members of the Board. The Executive Board also decided that it would either adopt or reject any JIU recommendation and that the Director-General would submit to it a regular report on the implementation of the recommendations that have been approved by the Board.[5] These guidelines, when implemented, can go a long way towards ensuring active consideration and effective follow-up of JIU reports by the organization.

20. However, this decision has not been fully applied. In the five sessions that have been held since the adoption by the Board of these guidelines, 10 reports of JIU were forwarded by the secretariat to the Board for consideration. In seven of those 10 cases, the Board simply took note of the conclusions and recommendations of the reports, without specifically endorsing or rejecting them. In three cases, however, the Board endorsed part or all of the recommendations. In at least two of these cases, JIU reports have led to direct and concrete changes of policy or procedures at UNESCO, as indicated in follow-up documents issued by the secretariat.

21. In order to provide more consistency in the consideration and follow up of JIU reports, and as the basis for dialogue between the UNESCO secretariat and JIU to this effect, a draft understanding similar to that reached with WHO and UNIDO was sent recently to the UNESCO secretariat and should be finalized in the coming weeks.

United Nations Industrial Development Organization

22. A pilot scheme for follow-up to JIU recommendations was prepared jointly by the secretariat and JIU during the course of 2000-2001, and endorsed by the Industrial Development Board at its twenty-fourth session on 22 June 2001.[6] The provisions of the JIU statute and the follow-up system approved by the General Assembly are clearly referred to as constituting the basic framework for the scheme, which also takes into account the follow-up procedure adopted earlier by the WHO Executive Board (see below). It includes basic criteria for determining the relevance of reports to UNIDO, a description of procedures for the distribution and consideration of the reports and the recommended format for the presentation of the documents submitted by the UNIDO secretariat to the Board concerning JIU reports.

23. In addition, the Director-General is committed to regularly submitting status reports to the Industrial Development Board concerning the measures taken on the implementation of approved recommendations ["through policy-making organs"]. It is also foreseen that the follow-up of JIU recommendations will be supported by the new UNIDO oversight recommendations tracking system, to be installed in 2001.

24. This scheme is subject to review and adjustment, as warranted by experience in its actual application, and in consultation with JIU.

World Health Organization

25. At its 106th session, on 22 May 2000, the Executive Board of WHO endorsed follow-up procedures for reports by JIU, prepared by the secretariat in consultation with the Unit.[7] The procedures covered basically the same issues as in the case of UNIDO as indicated above. Two sessions of the Executive Board have since been held; the 107th session in January 2001 and the 108th session in May 2001. In both cases, the item of JIU reports was taken up first by the Audit Committee of the Board, as provided for in the adopted follow-up procedures.

26. In January 2001, the secretariat forwarded four of seven reports submitted by the JIU to the Audit Committee for discussion. The recommendations of the JIU reports were presented in matrix form, together with the secretariat's comments thereon. For each recommendation, the secretariat indicated clearly whether it required legislative action. The Audit Committee reported to the Executive Board on its process of consideration of the JIU reports, stating in particular that it would now request that JIU reports, as and when they were finalized, should be sent to individual members of the Committee, together with the response by the secretariat.[8] The Committee, however, did not forward any substantive comments on the reports to the Board, which took no formal action on the reports or the recommendations.

27. In May 2001, the Audit Committee requested that in the future, the secretariat should divide JIU recommendations into three groups, it being understood that consideration by the Committee will focus mainly on the recommendations in the second and third categories:

(a) Those with which the secretariat agreed;

(b) Those on which the secretariat had some reservations but where a common understanding could be reached;

(c) Those on which the secretariat disagreed with JIU.

28. Consequently, discussion on the two JIU reports that had been presented by the secretariat were postponed until the next meeting of the Audit Committee. It should be noted, however, that contrary to its presentation to the 107th session, the secretariat did not indicate clearly in its presentation to the 108th session which recommendations required legislative action.

C. Status of consideration of the follow-up system in other participating organizations

1. Specialized agencies and the International Atomic Energy Agency

29. A dialogue has been initiated by JIU with the other specialized agencies and the International Atomic Energy Agency (IAEA) for the adoption of a similar follow-up system. Suggested texts outlining common understanding of the system have been sent out by JIU to all the secretariats, with a view to facilitating their eventual consideration by the legislative organs of these participating organizations. While the provisions of the JIU statute and the follow-up system endorsed by the

General Assembly constitute the basic framework for all these texts, they have been tailored to take into account the specific character of each organization, with a clear understanding that they are subject to review and adjustment as warranted by experience. Discussions are ongoing and are progressing satisfactorily in most cases, as detailed below.

Food and Agriculture Organization of the United Nations

30. The proposed JIU follow-up system included in the JIU annual report[1] was considered by the Programme and Finance Committees of the Food and Agriculture Organization of the United Nations (FAO) in the autumn of 1998 on behalf of the FAO Council. No members of the Committees objected to it and, therefore, according to the FAO secretariat, the follow-up system is considered to have been accepted by the FAO legislative organs, and the secretariat has confirmed its readiness to implement it.

31. Subsequent to the above, a meeting took place in May 2000 between JIU and the FAO secretariat with a view to arriving at a common understanding on the modalities of implementation of the proposed follow-up system. JIU is now awaiting a response from the FAO secretariat on a draft document outlining the understanding, which was sent to FAO in April 2001 to facilitate the process.

International Civil Aviation Organization

32. In a letter dated 2 October 2000, the secretariat of the International Civil Aviation Organization (ICAO) indicated that it accepted most of the recommendations contained in the note on the "Handling of JIU reports by ICAO" (JIU/NOTE/99/10). It agreed, in particular, that working papers submitted by the secretariat to the ICAO Council on JIU reports would clearly state the position of the Secretary General of ICAO with respect to each recommendation. In addition, the secretariat committed itself to monitoring the implementation of JIU recommendations accepted by its Secretary General and reporting the results to the Council annually.

33. A draft document on follow-up of JIU reports has also been sent to the ICAO secretariat, with a view to arriving at a clearer understanding between the secretariat and the Unit on a number of issues involved.

International Maritime Organization

34. It has been the practice of the secretariat of the International Maritime Organization (IMO) to suggest in its submissions on JIU reports to its Council that the latter take note of the information contained in the document, and to comment or decide, as it may deem appropriate. The note on "Handling of JIU reports by IMO" (JIU/NOTE/2000/1) called on the Secretary-General of IMO to encourage the Council to take more specific decisions on each of the pertinent recommendations contained in the JIU reports.

35. At its 80th session, in June 1998, the Council endorsed the intention of the Secretary-General to make every effort to observe the new procedures contained in the annex to the JIU annual report,[1] at least in respect of the JIU reports that are of direct relevance to the work of IMO. In order to provide concrete mechanisms through which this positive stance by the organization towards implementation/

follow-up could materialize, a proposed understanding for follow-up was sent out to the IMO secretariat in June 2001. The Unit is now awaiting comments by the IMO secretariat on the draft text.

International Telecommunication Union

36. The JIU note entitled "Handling of JIU reports by ITU" (JIU/NOTE/99/6) was sent to the Secretary-General of the International Telecommunication Union (ITU) by JIU in late 1999.

37. Subsequently, the Secretary-General of ITU proposed to report to the 2000 session of Council on the five recommendations contained in that note,[9] and a meeting took place on 17 July 2000 between the ITU secretariat and JIU to discuss the document. Based on the discussion at the meeting, the Unit, in its letter dated 18 July 2000 to the Secretary-General, which was submitted in turn to the Council as document C2000/53, requested that no action be taken at the 2000 session of Council pending further discussions. The Council agreed to defer discussion of the subject.[10]

38. In the meantime, JIU sent a draft understanding entitled "Follow-up on JIU reports", to the ITU secretariat in April 2001, to be used as the basis for further discussion on the subject. After a constructive dialogue held in May 2001, it was decided that a proposal on the follow-up system, to be agreed upon between JIU and the ITU secretariat after further consultations, would be submitted to the 2002 session of the Council.

Universal Postal Union

39. A note on "Handling of JIU reports by UPU" (JIU/NOTE/99/7) was sent to the Director-General of the Universal Postal Union (UPU) in December 1999, with which the Director-General fully concurred in his letter of 11 January 2000. Subsequent to the above, however, a summary of the recommendations contained in the note was submitted as part of a document (CA 2000 — Doc. 26) to the Council of Administration, held in October 2000, in which a certain reservation by the secretariat was included.

40. Accordingly, a meeting between the UPU secretariat and JIU was held in February 2001 and, based on this, a suggested understanding on follow-up was sent to the UPU secretariat for comments. The secretariat is currently examining this proposal.

World Intellectual Property Organization

41. A note, "Handling of JIU reports by WIPO" (JIU/NOTE/99/5), was sent to the Director General of the World Intellectual Property Organization (WIPO) in November 1999. Following preliminary talks on the issue held between JIU and the WIPO secretariat, the former submitted a draft understanding to the Director General in May 2001, as the basis for future dialogue between the WIPO secretariat and JIU. JIU is presently awaiting comments by the WIPO secretariat on the text proposed.

World Meteorological Organization

42. After the adoption of resolution 54/16 by the General Assembly, discussions were initiated between JIU and the WMO secretariat in order to improve handling of JIU reports and bring about a systematic implementation of the JIU proposed follow-up system. The WMO secretariat explicitly stated its view that the proposed follow-up system is "found reasonable and [is] being followed by WMO as appropriate".[11]

43. Discussions are ongoing between JIU and the WMO secretariat, based on a draft understanding prepared by JIU and sent to the secretariat in April 2001. A report on this matter is expected to be submitted by the WMO secretariat to the fifty-fourth session of the Executive Council in 2002.

International Atomic Energy Agency

44. While members of the Board of Governors are informed of all JIU reports through an information circular issued once a year, JIU reports are not distributed, but are provided to Member States upon request only. To date, no JIU reports have been taken up by IAEA legislative organs.

45. Preliminary discussions were held in June 2000 between JIU and the secretariat of IAEA, based on a note, "Handling of JIU reports by IAEA" (JIU/NOTE/2000/4), which was sent to the IAEA secretariat in May 2000. In June 2001, JIU also sent a draft agreement for follow-up on JIU reports to the IAEA secretariat. It is expected that further discussions will be held shortly with a view to reaching agreement on a final text.

2. United Nations funds and programmes

46. As subsidiary bodies of the General Assembly, the United Nations funds and programmes are bound by the former's decisions and resolutions. Thus, JIU does not need to seek separate approval from their governing bodies on recommendations that the General Assembly has already endorsed and has only to submit for action to the governing bodies those reports and/or recommendations that have a specific bearing on the activities of those organizations. In this latter context, there are of course instances where reports and/or recommendations are dealt with, in the first place, directly by the governing bodies of the funds and programmes.

47. As is clear from the above, the United Nations funds and programmes are bound de jure by resolution 54/16, which endorsed the JIU follow-up system. In practice, however, discussions between JIU and the fund and programme secretariats (and formal endorsement, if necessary, by their governing bodies) could greatly facilitate the actual implementation of the follow-up system. The Unit, therefore, has also engaged into a dialogue with most of these entities in order to reach a common understanding on concrete modalities for effecting the system.

United Nations Development Programme

48. The United Nations Development Programme (UNDP) has taken no separate legislative action on the JIU follow-up system. In order to facilitate implementation by UNDP of the JIU follow-up system, a note on "Handling of JIU reports by UNDP" (JIU/NOTE/99/8) was submitted to the Administrator of UNDP in

December 1999. Additionally, in June 2001, JIU submitted a draft understanding to be used as the basis for dialogue between JIU and the UNDP secretariat. Although the UNDP secretariat has already informally expressed its agreement with the thrust of the draft, JIU is waiting for official comments by UNDP at the time of writing of the present report.

United Nations Population Fund

49. Similarly, the United Nations Population Fund (UNFPA) has not taken any legislative action on the follow-up system approved by the General Assembly.

50. In June 2001, JIU sent a draft agreement to UNFPA, similar to that sent to UNDP. At the time of writing of the present report, no comment had been received from the UNFPA secretariat on the draft agreement.

51. The Office of the United Nations High Commissioner for Refugees (UNHCR) has not taken any separate legislative action on the follow-up system approved by the General Assembly.

52. Dialogue between JIU and the UNHCR secretariat has just started, on the basis of a draft understanding that was sent to UNHCR in early June 2001.

United Nations Children's Fund

53. Discussions were conducted between the secretariat of the United Nations Children's Fund (UNICEF) and JIU during the course of 2000 through means of the JIU note, "Handling of the JIU reports by UNICEF" (JIU/NOTE/99/9), which was sent to the Executive Director of UNICEF in December 1999.

54. Based on these discussions, the secretariat submitted recommendations containing a few elements on handling/follow-up of JIU reports to the first regular session of the Executive Board in January 2000, which were in turn adopted by the Board. Since some points remain to be clarified, however, discussions are ongoing, using, as a basis, a proposed text that was sent to the UNICEF secretariat.

World Food Programme

55. In January 2000, JIU requested information from the secretariat of the World Food Programme (WFP) on action proposed or taken by WFP on the follow-up system endorsed by the General Assembly in resolution 54/16. The JIU note entitled "Handling of JIU reports by WFP" (JIU/NOTE/2000/2) was also sent to the Executive Director of WFP in February 2000. In her letter of 3 March 2000, the Executive Director informed the Unit that the recommendations contained in the note, including the follow-up system endorsed by the General Assembly, had been referred to the Bureau of the Executive Board for review.

56. Subsequently, the WFP secretariat, making reference to the endorsed follow-up system submitted to the Executive Board at its second regular session in May 2000 for consideration and approval, proposed possible changes to the WFP current procedures on follow-up/handling of JIU reports.[12] In the meantime, a meeting took place between the WFP secretariat and JIU prior to the session of the Executive Board in May 2000, at which the Board decided to simply take note of the information on follow-up required by JIU and encouraged the secretariat and the Unit to continue discussions with a view to developing a system of follow-up to the

JIU recommendations. The Board looked forward to reviewing the matter in due course.[13] Pursuant to the decision, in March 2001, JIU sent a draft understanding on follow-up to JIU reports/recommendations to the WFP secretariat for possible submission to the Executive Board at its second regular session of May 2001.

57. The WFP secretariat felt, however, that more time would be required for detailed consideration. Meanwhile, the Executive Board decided to encourage the Secretariat to continue its discussions with JIU to strengthen the follow-up system currently in place.[14] The understanding between JIU and the WFP secretariat will be finalized shortly.

III. Suggested action by the General Assembly

58. The General Assembly may wish to adopt the following draft resolution:

"*The General Assembly*,

"*Having examined* the report of the Joint Inspection Unit, hereafter referred to as the Unit, on its experience with the follow-up system on its reports and recommendations,[15]

"*Invites* the legislative organs of those participating organizations of the Unit that have not yet done so to endorse the follow-up system contained in annex I of the Unit's annual report for the period from 1 July 1996 to 30 June 1997,[16]

"*Requests* the Unit to submit a second report on its experience with the follow-up system on its reports and recommendations to the General Assembly at its fifty-eighth session."

Notes

[1] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 34* (A/52/34).

[2] A/C.5/55/42, annex II.

[3] It is to be noted, in this context, that it has been the practice of JIU to segment its recommendations into two categories: those addressed to the legislative organs and those to the executive heads.

[4] ILO document GB.277/PFA/7/2.

[5] 154 EX/decision 7.9.3 and 155 EX/decision 8.10.3; see UNESCO documents 154 EX/SR.1 and 155 EX/SR.11.

[6] UNIDO document IDB.24/18, Activities of the Joint Inspection Unit, 26 April 2001 and decision IBD.24/11.

[7] WHO document EB106/6, reports of the Joint Inspection Unit: follow-up procedures, 26 April 2000.

[8] Report of the third meeting of the WHO Audit Committee of the Executive Board, EBAC3/7, 12 January 2001.

[9] ITU document C2000/23, 22 June 2000.

[10] ITU document C2000/97, para. 4, 22 September 2000.

[11] EC-L/Doc.18, appendix C, para. 2.

[12] WFP document WFP/EB.2/2000/8 (para. 3 and annexes I and II) of 11 April 2000, entitled "Reports by the Joint Inspection Unit relevant to the work of the World Food Programme and the Executive Board".

[13] See WFP/EB.2/2000/11 of 19 May 2000 and decision 2000/EB.2/18.

[14] WFP documents WFP/EB.2/2001/8 of 6 April 2001, WFP/EB.2/2001/11 of 18 May 2001 and decision 2001/EB.2/23.

[15] A/56/356.

[16] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 34* (A/52/34).

United Nations A/56/357

General Assembly

Distr.: General
14 September 2001

Original: English

Fifty-sixth session
Item 41 (b) of the provisional agenda*
Oceans and the law of the sea

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

Report of the Secretary-General**

Contents

		Paragraphs	Page
	Abbreviations		2
I.	Introduction	1–8	4
II.	Information provided by States	9–50	4
III.	Information provided by international organizations	51–105	10
	A. Specialized agencies of the United Nations system	51–53	10
	B. Regional and subregional fisheries organizations and arrangements	54–98	15
	C. Other intergovernmental organizations	99–105	21
IV.	Information provided by non-governmental organizations	106–111	22
V.	Concluding remarks	112–116	24
Annex			
	Status of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks		25

* A/56/150.

** The deadline for receipt of submissions from States, intergovernmental and non-governmental organizations was 30 June 2001. However, most submissions were received at a much later date.

01-53695 (E) 051001

Abbreviations

ACFM	Advisory Committee on Fishery Management
ACP	African, Caribbean and Pacific States
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
COFI	Committee on Fisheries of FAO
CPPS	Permanent Commission for the South Pacific
EC	European Community
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
FAO	Food and Agriculture Organization of the United Nations
FFA	Forum Fisheries Agency
FIGIS	Fisheries Global Information System of FAO
FIRM	Marine Resources Service of FAO
FSI	Subcommittee on Flag State Implementation of IMO
GFCM	General Fisheries Commission for the Mediterranean
HSUS/HIS	Humane Society of the United States/Humane Society International
IATTC	Inter-American Tropical Tuna Commission
IBSFC	International Baltic Sea Fishery Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICES	International Council for the Exploration of the Sea
ILO	International Labour Organization
IMO	International Maritime Organization
IOTC	Indian Ocean Tuna Commission
IPHC	International Pacific Halibut Commission
IPOA	International Plan of Action (FAO)
IUU fishing	illegal, unreported and unregulated fishing
MARPOL 73/78	International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto
MEPC	IMO Marine Environment Protection Committee
MSC	IMO Maritime Safety Committee
NAFO	Northwest Atlantic Fisheries Organization

NASCO	North Atlantic Salmon Conservation Organization
NEAFC	North-East Atlantic Fisheries Commission
SEAFO	South Atlantic Fisheries Organization
SPC	Secretariat of the Pacific Community
VMS	vessel monitoring system
WCPTO Convention	Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean
WECAFC	Western Central Atlantic Fishery Commission

I. Introduction

1. In its resolution 54/32 of 24 November 1999, the General Assembly recognized, inter alia, that the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks ("the 1995 Fish Stocks Agreement") set forth the rights and obligations of States in authorizing the use of vessels flying their flags for fishing on the high seas, so that the activities of these vessels do not undermine the effectiveness of conservation and management measures adopted in accordance with international law at the national, subregional, regional and global levels, and emphasized the importance of its early entry into force and effective implementation.

2. The General Assembly also called upon States and other entities that had not yet done so to ratify or accede to the Agreement and to consider applying it provisionally. As at 14 September 2001, 29 States had deposited their instruments of ratification/accession of the 1995 Fish Stocks Agreement with the Secretary-General of the United Nations (see annex). Article 40 of the Agreement stipulates that it will enter into force 30 days after the deposit of the thirtieth instrument of ratification/accession.

3. In addition, the General Assembly called upon all States to ensure that their vessels comply with conservation and management measures adopted in accordance with the Fish Stocks Agreement by subregional and regional fisheries management organizations and arrangements. It also requested States not to permit vessels flying their flag to engage in fishing on the high seas without having effective control over their activities and to take specific measures to control their fishing operations.

4. Moreover, the General Assembly called upon the International Maritime Organization (IMO), in cooperation with the Food and Agriculture Organization of the United Nations (FAO), regional fisheries management organizations and arrangements and other relevant international organizations, and in consultations with States and entities, to define the concept of the genuine link between the fishing vessel and the State in order to assist in the implementation of the Agreement.

5. The General Assembly furthermore urged all States to participate in the efforts of FAO to develop an international plan of action to address illegal, unregulated and unreported (IUU) fishing (subsequently adopted by FAO at the twenty-fourth session of its Committee on Fisheries (COFI) in March 2001) and in all other efforts to coordinate the work of FAO with other international organizations. It also encouraged all States and entities concerned to work with flag States and FAO in developing and implementing measures to combat or curb such illegal, unregulated and unreported fishing.

6. The General Assembly also called upon States to provide assistance to developing States as outlined in the Agreement, and encouraged States and other entities to integrate in the management of straddling fish stocks and highly migratory fish stocks the requirements for the protection of the marine environment, notably those resulting from multilateral environment agreements.

7. The General Assembly then requested the Secretary-General to bring the resolution to the attention of all members of the international community, and invited them to provide the Secretary-General with information relevant to its implementation.

8. Accordingly, the Secretary-General sent a note verbale to all States drawing their attention to General Assembly resolution 54/32. Letters were also addressed to relevant intergovernmental organizations, organizations and bodies of the United Nations system, as well as regional and subregional fisheries organizations and arrangements and relevant non-governmental organizations. In response, the Secretary-General received a number of submissions and comments. He wishes to express his appreciation for all the contributions.

II. Information provided by States

9. In its submission of 1 May 2001, **Oman** stated that, in order to conserve fish stocks, it had taken the decision to limit the expansion of commercial fisheries, through the requirement of licences for companies to harvest specified quantities of fish on annual basis, as the current extent of fish stocks permitted. Oman had also designated areas where commercial fishing was allowed and had taken measures to conserve fish stocks

and protect the marine environment and fish breeding grounds. Trans-shipment at sea had been prohibited in order to assist in the verification of the species and quantities of fish taken by each vessel on each fishing voyage.

10. Moreover, in order to ensure compliance with its fishing laws and regulations, Oman had paid great attention to the monitoring of activities of fishing vessels, through the placement of observers on board vessels and, more recently, through the use of satellite-based vessel monitoring systems. It had also sought to coordinate its conservation and management efforts with those of neighbouring countries in respect of resources found in common areas in order to eliminate illegal fishing, in accordance with General Assembly resolutions. Oman pointed out that the Marine Fisheries and Protection of Aquatic Living Resources Act and its implementing regulations now provided more severe penalties for illegal fishing, and this had also had a positive impact in curbing violations by commercial fishing vessels. A comprehensive review of the Act and its implementing regulations was currently under way, and the Code of Conduct for Responsible Fisheries would provide guidelines for the basic principles on which the review would be based.

11. In its reply dated 7 May 2001, **Panama** informed the Secretary-General that its Executive Decree No. 49 of 13 November 1997 contained a regulation on the issuance of international fishing licences for high seas fishing vessels. The regulation stipulated that the acquisition of the international fishing licence and payment of relevant dues were necessary prerequisites for registering a vessel with the Department of Consular and Shipping Affairs. However, such international fishing licences could not be granted unless extensive requirements listed in the Executive Order were complied with. These requirements included the provision of information on the following: particulars on and verification of the name of the fishing company; nationality and domicile of the vessel's owner; specifications of the vessel; targeted fisheries; geographical locations of fishing areas; gear and methods of fishing; ports of landing and areas of trans-shipment; installation of a vessel monitoring system; and submission of statistical data on catch and fishing activity of vessels for each fishing trip.

12. Violations of the provisions of the regulation were subject to penalties ranging from the imposition of fines to the removal of the vessel from Panamanian registry. Moreover, application for an international fishing licence would be rejected in the following cases: shrimp fishing in areas under the jurisdiction of third States, except in cold climates where there were no turtles, and where any evidence of the necessary authorization to fish from such States was not provided; cod fishing in the North Atlantic, with an exception being made for vessels which had obtained a licence to fish in the exclusive economic zone of a third country with a catch quota for cod; salmon fishing in the North Atlantic, with an exception being made for vessels which had obtained a licence to fish in the exclusive economic zone of a third State with a quota for salmon; vessels whose registration had been previously cancelled because of failure to comply with international fishing regulations; vessels seeking for the first time to fish for tuna in the Atlantic Ocean, until agreement was reached with the International Commission for the Conservation of Atlantic Tunas (ICCAT) or vessels which sought to fish for bluefin tuna; vessels which wanted to fish in the Mediterranean Sea or to fish below 35 degrees latitude south; and vessels which were on the lists of IUU fishing vessels provided by regional fishery bodies.

13. In its response of 10 May 2001, **Namibia** indicated that it had ratified the Fish Stocks Agreement on 8 April 1998. Moreover, it had expressed its support for the Agreement at various international fisheries forums and had urged other States which had not yet done so to ratify the Agreement, as well as to harmonize their national legislation with it in order to facilitate its smooth entry into force.

14. Over the past five years, Namibia had actively participated in the initiatives leading to the establishment of a Fisheries Management Organization for the South-East Atlantic Ocean, the Convention for which was signed on 20 April 2001. It had also deposited its instrument of acceptance of the Agreement to Promote Compliance with International Conservation and Management Measures on the High Seas (FAO Compliance Agreement) with the Director-General of FAO in 1998 and had ratified the ICCAT Convention and the Convention of the Commission for Conservation of Antarctic Marine Living Resources (CCAMLR) in 1998 and 2000 respectively.

15. Furthermore, as a consequence of its ratification of/accession to the above-mentioned international instruments, it had adopted in 2000 a new Marine Resources Act (No. 27), which complemented the

conservation and management measures envisaged in those international agreements. The Act includes provisions which ensure that Namibia will exercise effective control over the activities of fishing vessels flying its flag on the high seas, as well as those obliging fishing vessels flying the flag of Namibia to have a licence for fishing outside Namibian waters. The Act also allowed Namibia to enforce fishery management measures of fishery organizations to which it is a party.

16. In addition, Namibia had actively participated in the FAO Committee on Fisheries meeting in February 2001, which developed the International Plan of Action (IPOA) to address IUU fishing, and it supported efforts to coordinate all the work of FAO with other international organizations, including IMO. With particular reference to IUU fishing, Namibia stressed that it had already implemented measures aimed at combating IUU fishing: one such measure concerned a case where the Namibian authorities had refused permission to an IUU fishing vessel from Belize to offload in its ports fish caught in the CCAMLR Convention area.

17. In its submission of 26 June 2001, **Denmark** stated that it had signed the Fish Stocks Agreement on 27 June 1996. However, ratification of the Agreement by Denmark would be concluded in coordination with the other States members of the European Union.

18. Denmark also had taken measures to ensure that vessels flying its flag were allowed to conduct fishing operations in areas regulated by subregional or regional fisheries management organizations, under the precondition that they adhered to the conservation and management measures of these organizations. A breach of those provisions could subject the perpetrator to legal measures under international law and Danish legislation. Furthermore, as a flag State, Denmark had stipulated that Danish national fishing surveillance included areas on the high seas which were not covered by regional fisheries management operations, in order to control the fishing operations of fishing vessels flying its flag.

19. In addition, Denmark had actively cooperated on all levels in the exchange of information regarding illegal fishing, as part of its activities aimed at combating IUU fishing in coordination with flag States and FAO. Concerning assistance to developing States, Denmark indicated that it had provided support to the development of the fisheries sector in Viet Nam, including aid for the management of fish stocks.

20. In its response dated 26 June 2001, **Lebanon** stated that it did not fish on the high seas and had not given permission to any foreign vessels to fish under Lebanese flag in those areas.

21. In its submission of 5 July 2001, the **United Kingdom of Great Britain and Northern Ireland** indicated that it believed that the Agreement played an important role in the effective management of international fisheries. The United Kingdom would ratify the Fish Stocks Agreement simultaneously with the other European Union member States as soon as all member States had completed their internal processes. The United Kingdom had already ratified the Agreement in respect of a number of its Overseas Territories.

22. As regards to high seas fishing, the United Kingdom indicated that the European Community (EC) had regulatory competence for the metropolitan United Kingdom for matters relating to the determination of conservation and management measures therein by flag States. The Community also had the responsibility for introducing conservation and management measures to comply with measures adopted by regional fisheries management organizations. It was then up to the United Kingdom to ensure that the requirements were introduced into national legislation and that vessels flying the United Kingdom flag adhered to those rules.

23. The United Kingdom also was a member of relevant fisheries organizations in respect of its Overseas Territories, and it had ensured that those Territories complied with the measures adopted by those organizations by incorporating them into local legislation. The Overseas Territories, however, had individual responsibility to control the fishing operations of vessels flying their flag, and the conditions they required for high seas fishing licences included compliance with any obligations under United Nations Conventions to which the United Kingdom was a party.

24. In addition, the United Kingdom supported the efforts of the international community to make regional fisheries organizations the cornerstone of international cooperation in the sustainable management and conservation of marine resources within their areas of competence, as well as in the implementation of the 1995 Fish Stocks Agreement and the FAO Code of

Conduct for Responsible Fisheries. It had therefore endorsed the calls by the General Assembly to the United Nations system, the international financial institutions and the donor community in general, to review their programmes in order to help to improve the management capacity of those fisheries organizations, including in the area of marine science.

25. Furthermore, the United Kingdom had taken an active role in the FAO working group which had been set up to develop an IPOA on IUU fishing, in view of its concern about the growing prevalence of such practice and its adverse impact on the sustainable management of global fish stocks. It was currently considering in respect of its Overseas Territories how it could implement the FAO IPOA to help eliminate IUU fishing. The United Kingdom also believed that FAO should work closely with other United Nations agencies such as IMO and the International Labour Organization (ILO), to work towards more effective flag State and port State control.

26. With regard to assistance to developing States, the United Kingdom reported that it had participated, in partnership with FAO, in a programme of support to 25 countries of West Africa for the implementation of the Code of Conduct for Responsible Fisheries. It also gave support to the countries of the Southern African Development Community (SADC) for the development of regional information systems to underpin the management of fish stocks, including straddling stocks.

27. In its submission of 11 July 2001, **Saudi Arabia** indicated that it was currently conducting studies and research on straddling and highly migratory fish stocks in maritime areas subject to the jurisdiction of States members of the Gulf Cooperation Council. Once they were completed, Saudi Arabia would consider accession to the 1995 Fish Stocks Agreement.

28. Saudi Arabia's fishing vessels continued to observe conservation measures such as the 1996 banning of the use of drift-nets and were not allowed to use any internationally prohibited methods of fishing. Furthermore, although Saudi Arabia had no fishing vessels operating on the high seas, its vessels did fish in the waters of neighbouring countries under agreements with the Governments of those countries.

29. Saudi Arabia also had cooperated with FAO in all areas of fisheries conservation and management, including on measures to combat illegal fishing. It had paid great attention to the protection of the marine environment through the activities of governmental departments such as the Weather Forecast and Environmental Protection Administration, the Natural Life Protection and Enhancement Foundation and the Administration of Aquatic Life in the Ministry of Agriculture and Waters Resources. In addition, Saudi Arabia, as a developing country, had called upon States with advanced fishing techniques to provide assistance to developing States in the field of fisheries conservation and management.

30. In its response dated 11 July 2001, **Jordan** drew attention to the relevant provisions of its Agriculture Law relating to the conduct of commercial fishing within areas under its jurisdiction. The legislation, inter alia, regulated the licensing of commercial fisheries and the areas where fishing was prohibited. The use of nets and other fishing methods and allocation of catch size were also among the topics addressed in the legislation.[1]

31. In its submission of 17 July 2001, **Canada** indicated that it had ratified the Fish Stocks Agreement on 3 August 1999 and that the legislative and regulatory provisions necessary to implement the Agreement in Canada would enter into force upon the entry into force of the Agreement. Canada encouraged all States to ratify and fully implement the Agreement.

32. In addition, as a flag State, Canada had required, through the use of legislation, regulation, or conditions of licence, that Canadian flagged vessels comply with all conservation and management measures binding upon Canada. It had enforced compliance with those measures through regionally adopted enforcement schemes and domestic programmes.

33. Canada also had participated in the Experts Consultation on IUU fishing in Sydney, Australia (15-19 May 2000), the First Technical Consultation in Rome (2-6 October 2000) and the Second Technical Consultation in Rome (21-23 February 2001). It had also participated as a representative from IMO in the meeting of the joint FAO/IMO ad hoc Working Group on IUU fishing held in Rome (9-11 October 2000).

34. Concerning the integration of the requirements of the protection of the marine environment in the management of straddling fish stocks and highly migratory fish stocks, Canada stated that its Oceans Act required the Minister of Fisheries and Oceans to lead and facilitate the development and implementation of a national strategy for the management of estuarine,

coastal and marine ecosystems in waters that formed part of Canada or over which Canada had sovereign rights under international law. Such national strategy ought to be based upon integrated management, the precautionary approach and sustainable development. The protection of the marine environment and the proper management of fisheries were key elements of the strategy. Within regional fisheries management organizations, Canada encouraged the use of the precautionary approach and ecosystem approaches in accordance with the 1995 Fish Stocks Agreement.

35. With regard to its assistance to developing States, Canada reported that it had continued to provide assistance to multilateral and regional organizations, as well as to States in the field of fisheries conservation and management through the Canadian International Development Agency's Strategy for Ocean Management and Development.

36. In its submission of 20 July 2001, **Mexico** stated that although it had supported the elaboration of the 1995 Fish Stocks Agreement and had participated in the negotiations leading up to its adoption, the position of Mexico was that it could not become a party to the Agreement since some of its provisions might infringe upon the sovereign rights of flag States and also because the Agreement failed to address issues relating to the equity of fishing rights on the high seas. Nonetheless, Mexico was committed to the actions outlined and most of the principles set forth in the Agreement, which were being implemented at the international level in order to achieve the proper use of high seas fishery resources, as well as to the recommendations to that effect provided in the Code of Conduct for Responsible Fisheries.

37. Furthermore, as a party to the United Nations Convention on the Law of the Sea (UNCLOS), Mexico was committed to taking measures for the conservation and management of marine species and to collaborating at the regional and international levels in achieving the sustainable use of marine resources. In that connection, it pointed out that its Fisheries Act, among other things, included the following provisions: prohibition of reflagging; provision for issuing licences for vessels flying the flag of Mexico only; regulation of fishing activities on the high seas as part of the responsibility of the flag State; obligation for the flag State to maintain a record of fishing vessels authorized to fish on the high seas. The Act also provided that it was a violation of the Act for vessels flying the flag of Mexico to fish on the high seas or in areas under the jurisdiction of other States without authorization, or to fail to abide by the terms and conditions set forth in the authorization issued by foreign Governments to the Mexican Government concerning species catch. The Act provided for penalties that included warnings, seizures of catches and/or fines.

38. The Fisheries Act and its implementing regulations stipulated also that authorization to fish on the high seas or in an area under the jurisdiction of a foreign State required strict compliance with international regulations on navigation and on fishing, in particular those applied by foreign Governments in waters under their jurisdiction.

39. In addition, Mexico had participated in the FAO negotiations to devise a mechanism to combat IUU fishing, in a framework fully consistent with international law. It was of the view that the IPOA should be consistent with trade laws and rules regarding the application of trade-related measures and port State measures, in a context that clearly defined the jurisdiction of each State over vessels flying its flag and the appropriate actions that regional fisheries management organizations had to take, consistent with international law. In that connection, Mexico stressed that it had expressed concern over the improper use of trade-related measures by some countries on the pretext of promoting conservation and management measures. Such an approach was not the appropriate mechanism for conserving marine resources. Mexico also was currently studying the implementation of the IPOA at the national level and, where applicable, at the regional level. It had participated at the regional level, as a member of the Inter-American Tropical Tuna Commission (IATTC), in the adoption of measures to regulate fishing by non-party vessels, including the compilation of a list of vessels fishing illegally in the IATTC regulatory area, as implementing measures to combat IUU fishing.

40. Moreover, Mexico stressed that the chief objective of its national fisheries policy was to achieve environmentally sound fisheries, which would be sustainable over the long term and generate food, jobs and income. The following programmes had been carried out to achieve that objective: a research programme for the evaluation of fisheries, through the evaluation of the main resources and specially protected species, including the effects of ecosystem changes, fishing pressure, pollution, habitat alteration

or climate or environmental change on fish stocks and their ecosystems, and optimization of fish harvesting and marketing in order to reduce by-catch and discards; a research programme on commercial fishery harvesting methods to determine the impact of fishing gear on the resource and its habitat; and programmes to reduce by-catch of sea turtles and other non-target species in the shrimp fishing fleet through the use of turtle-excluder devices and fish-excluder devices respectively.

41. In conclusion, Mexico stated that it had discharged its obligation to cooperate under UNCLOS in the proper use of fishery resources by participating in the efforts of international fishery organizations to conserve fish stocks. At the regional level, it was a party to the 1998 Agreement on the International Dolphin Conservation Programme and had participated as an observer since 1983 in the meetings of the International Commission for the Conservation of Atlantic Tunas. Mexico currently had the status of "cooperating party" within that organization.

42. In its reply of 24 July 2001, **Ukraine** stated that, in accordance with Ukrainian legislative procedure, draft legislation had been prepared regarding the ratification of the 1995 Fish Stocks Agreement. The draft had been discussed in various ministries and would shortly be transmitted for discussion by the Verkhovna Rada (Parliament) of Ukraine.

43. Ukraine was a member of two regional fishery organizations, the Northwest Atlantic Fisheries Organization (NAFO) and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), and consequently vessels flying the flag of Ukraine fishing in NAFO and CCAMLR regulatory areas were obliged to implement the management decisions of those organizations. In order to monitor vessels flying its flag, Ukraine required vessels fishing on the high seas to submit daily reports on vessel positions and basic catch figures. Moreover, all fishing vessels were listed in the State Register of Vessels or Shipping Book. Vessels fishing for Patagonian toothfish in the CCAMLR regulatory area and those fishing in the NAFO Convention area were also equipped with a satellite vessel monitoring system (VMS). Organizational arrangements were currently being made to introduce a VMS in all vessels fishing on the high seas.

44. Although it had not taken part in the elaboration of the IPOA on IUU fishing adopted by FAO in March 2001, Ukraine was making every effort to take the provisions of the IPOA into account in drafting a separate regulation that would set the procedure for vessels flying the flag of Ukraine engaged in fishing in areas beyond national jurisdiction, and was also currently implementing CCAMLR conservation measures to prevent IUU fishing. In addition, Ukraine was cooperating on the issue of IUU fishing with interested countries through the reciprocal exchange of information.

45. Concerning the issue of protection of the marine environment, Ukraine pointed out that vessels flying its flag were observing the special CCAMLR conservation measures for the prevention of marine pollution by debris, garbage and plastic packaging bands in the Convention area. It had also ratified the 1973 International Convention for the Prevention of Pollution from Ships and its 1978 Protocol (MARPOL 73/78). The Convention had been incorporated in the national legislation of Ukraine.

46. In its submission of 8 August 2001, the **United States of America** stated that it viewed the 1995 Fish Stocks Agreement as an effective tool for ensuring the conservation and management of straddling fish stocks and highly migratory fish stocks, and since it had ratified the Agreement in 1996, it had implemented it domestically through a variety of laws and regulations, primarily the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996. The United States had also undertaken extensive diplomatic efforts to encourage other Governments to ratify or accede to the Agreement. Efforts had been made to encourage the application of key provisions of the Agreement in regional fisheries organizations and arrangements.

47. With respect to national implementation, the United States indicated that the provisions of existing laws and regulations required all overfished fisheries to be identified and then placed under plans, with a view to rebuilding the affected stocks within 10 years. The relevant law also established the authority to prohibit the use of any fishing gear not included in an approved list and to collect the data specified in Annex I of the Fish Stocks Agreement. Those provisions together with other initiatives to implement the precautionary approach were intended to maintain compatibility between domestic fisheries management and

management measures for relevant stocks beyond the exclusive economic zone of the United States, as efforts were being made to implement the provisions of the Agreement in the regional and subregional fisheries management organizations and arrangements to which the United States was a party or a participant. The United States also believed that its fisheries management system, using eight regional fishery management councils, was the most transparent of such systems in the world, providing for participation and input from all interested stakeholders.

48. In addition, the United States had implemented the FAO Compliance Agreement through its High Seas Fishing Compliance Act. The United States and Canada were the only two States that provided information to FAO on vessels flying their respective flags authorized to conduct fishing on the high seas, in accordance with the Compliance Agreement.

49. With respect to international implementation, the United States, as indicated previously, had continued to encourage relevant international fishery organizations and arrangements to apply key provisions of the United Nations Fish Stocks Agreement. To that end, it had led efforts in the adoption and implementation of high-priority provisions of the Agreement, such as the precautionary approach, transparency, fishing by non-members, compliance and enforcement, and rights of new members in various international fishery organizations and arrangements, such as ICCAT, NAFO, IATTC, the Convention for the Conservation of Pollock Resources of the Central Bering Sea (the Donut Hole Agreement), CCAMLR, and the North Atlantic Salmon Conservation Organization (NASCO).

50. The United States further indicated that it had worked towards ensuring that the provision of the Fish Stocks Agreement were taken into consideration in negotiations to establish two new fisheries bodies, the South-East Atlantic Fisheries Organization (SEAFO) and the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific.

III. Information provided by international organizations

A. Specialized agencies of the United Nations system

51. In its response to the Secretary-General dated 28 June 2001, **FAO** submitted the following report:

"...

"1. *Measures taken to implement and enforce the provisions of the 1995 Fish Stocks Agreement*

"FAO promotes the implementation of the 1995 Fish Stocks Agreement, the 1993 FAO Compliance Agreement and the 1995 FAO Code of Conduct for Responsible Fisheries as a package. To this end FAO urges all regional fisheries organizations to encourage their respective members to discuss these instruments at their sessions, to accept them if they have not already done so and to take steps to implement them fully. FAO recognizes that the implementation of these instruments is vital to long-term sustainability in the fisheries sector. The entry into force and application of these instruments should also greatly reduce the incidence of practices such as illegal, unreported and unregulated fishing.

"...

"1.1 *New organizations being established to implement the 1995 Fish Stocks Agreement*

"1.1.1 *Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean*

"The Western and Central Pacific Fisheries Convention was concluded in Honolulu, United States, on 5 September 2000 and opened for signature on the same day. Of the 25 States eligible to sign the Convention, 16 have so far done so. Taiwan Province of China has also signed under a special arrangement as a fishing entity. Three States, Fiji, the Marshall Islands and Samoa, had ratified the Convention as at 30 May 2001.

"The Convention will enter into force after it is ratified by three States situated north of 20° N and seven States situated south of 20° N. If

three northern States have not ratified the Convention within three years of its adoption, then it will enter into force after the thirteenth ratification.

"The Convention is a comprehensive fisheries management agreement covering exclusive economic zones and the high seas. It is based on the provisions of the 1995 Fish Stocks Agreement.

"When the Convention was concluded in September 2000, participants decided to establish a Preparatory Conference process to make the necessary arrangements for the entry into force of the Convention and for the commencement of the functions of the future Commission.

"The first meeting of the Preparatory Conference was hosted by New Zealand, as depository of the Convention, from 23 to 28 April 2001 in Christchurch, New Zealand. At the meeting, it was decided that the Preparatory Conference should meet approximately every six to nine months, that the second meeting would be held in Papua New Guinea in January or February 2002 and that the Conference should aim to conclude its work within three years.

"1.1.2 *South-East Atlantic Fishery Organization*

"A global increase in fishing activity in the waters that fall outside of individual countries' national waters (exclusive economic zones) known as the 'high seas' has increasingly worried many coastal States and also the international community at large. This concern is reflected in several conventions and policy documents that have been agreed under the auspices of FAO and regional fisheries organizations.

"In the light of this, Namibia together with neighbouring coastal States raised concerns related to the increased fishing activities on the high seas adjacent to their exclusive economic zone. Straddling and shared fish stocks occur between the exclusive economic zones of Namibia, neighbouring countries and the high seas and create an uncertainty in terms of sustainable fisheries management. Therefore, in 1997, an initiative was taken to find a way forward to enhance the conservation and management of the fisheries resources in the high seas in cooperation with other coastal States whose national waters border the South-East Atlantic. The coastal States are Angola, South Africa and the United Kingdom in respect of its overseas territory of St. Helena and its dependencies Tristan da Cunha and Ascension Island, and Namibia. Other parties with fishing interests in the South-East Atlantic were also invited to join the negotiating rounds. They were the European Community, Iceland, Japan, Norway, Poland, the Republic of Korea, the Russian Federation, Ukraine and the United States of America.

"Participants agreed to establish the South-East Atlantic Fisheries Organization for the management of fishery resources within the Convention area that is not covered by other regional organizations such as ICCAT.

"The Convention area runs approximately west of Angola, Namibia and South Africa as far as the mid-Atlantic ridge (beginning at the outer limit of waters under national jurisdiction at a point 6° South, thence due west along the 6° South parallel to the meridian 10° West, thence due north along the 10° West meridian to the equator, thence due west along the equator to the meridian 20° West, thence due south along the 20° West meridian to a parallel 50° South, thence due east along the 50° South parallel to the meridian 30° East, thence due north along the 30° East meridian to the coast of the African continent).

"The organization will implement the highest international standards related to responsible fisheries management, in particular those reflected in the 1982 United Nations Convention on the Law of the Sea, the 1995 Fish Stocks Agreement, the 1993 FAO Compliance Agreement and the 1995 FAO Code of Conduct for Responsible Fisheries.

"The Convention will enter into force 60 days after the date of deposit with the depository (the Director-General of the Food and Agriculture Organization of the United Nations) of the third instrument of ratification or accession or acceptance or approval, at least one of which has to be deposited by a coastal State. The SEAFO Convention will remain open for signature or

accession by other States after the signing ceremony. However, in the spirit of good faith, the negotiating parties have agreed to implement a set of interim arrangements immediately after the signing of the Convention, underlining the serious nature and urgency that has been associated with the establishment of good management practices within this area.

"The SEAFO headquarters will be in Windhoek. An interim secretariat has been established to coordinate and manage the interim measures, which will operate until the Convention enters fully into force and its Commission has been established.

"One of the main tasks of the interim secretariat is to implement various interim arrangements annexed to the Convention. Key areas to be addressed include the collection of catch data as well as the register of fishing vessels operating in the SEAFO area.

"The signing ceremony of the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean was held at Windhoek on 20 April 2001. The Convention is one of the first conventions signed following the 1995 Fish Stocks Agreement.

"...

"2. *Cooperation with IMO, regional fisheries management organizations and arrangements and other relevant international organizations, and in consultation with States and entities, to define the concept of a genuine link between the fishing vessel and the flag State whose flag is flying in order to assist in the implementation of the 1995 Fish Stocks Agreement*

"In February 2000, FAO attended the session of the International Maritime Organization Flag State Implementation (FSI) Subcommittee and made the suggestion that a Joint FAO/IMO ad hoc working group on IUU fishing and related matters should be established and that IUU fishing should be included in the FSI work programme. FSI requested FAO to prepare terms of reference (TORs) to be submitted to the Maritime Safety Committee (MSC) in May 2000 for approval. The TORs were agreed by MSC and a meeting of the Ad Hoc Working Group was held in Rome from 9 to 11 October 2000. In February 2001, the report of the Working Group was submitted to FSI in which the recommendations were grouped into those recommendations that would be considered flag State issues and those that were considered port State issues.

"FSI expressed the view that the recommendations, which had been raised under port State issues, were not legally under the mandate of the FSI Subcommittee because the Conventions which specifically referred to fishing vessels were not in force and because most of the other IMO Conventions specifically excluded fishing vessels. On the other hand, the flag State issues were held to be worthy of inclusion in the FSI work programme and the appropriate recommendation was made to MSC, which met in May 2001.

"FSI requested member States to submit appropriate documentation on the issue. At the same meeting, papers were presented on the registration of ships that indirectly referred to the 'genuine link', and those papers were referred to the next meeting of FSI. It is likely that both issues will be referred to a correspondence group on flag State implementation that will report back to the FSI Subcommittee in February 2002. At the FAO Committee on Fisheries, which met in Rome in early March 2001, the recommendations of the Joint FAO/IMO Ad Hoc Working Group were noted, and it was agreed that FAO should continue to cooperate with IMO as appropriate.

"It might be noted that in Panama and Honduras, the fisheries administrations are pressurizing the Shipping Registers to refuse to register and de-register fishing vessels that do not have authorizations to fish. Panama has around 180 vessels, of which only 89 have authorizations to fish. Honduras sent a representative to ICCAT last year to address the matter. According to a Honduran statement, out of a total of 269 fishing vessels in the Honduran fleet in October 2000, 228 licences had been cancelled and 41 had been temporarily suspended until Honduras adopted the necessary measures to ensure compliance with ICCAT conservation and management measures. Taking into account the declaration by Honduras, an import ban on bigeye tuna from Honduras will

take effect on 1 January 2002 (instead of July 2001 for other countries identified) unless ICCAT decides otherwise at its next meeting. Meanwhile, Honduras has become a member of ICCAT.

"It is not clear what Honduras means by 'cancelled' or 'temporarily suspended'. Bearing in mind that while there is a 'public law' aspect to vessel registration with regard to the allocation of nationality of a vessel, there is also the 'private law' aspect with regard to the registration of ownership. Normally the Registrar has to give notice in writing to the owner(s) and mortgagees as to the reason for deleting a vessel from the Register and inform them when the vessel will be deleted. The owner(s) and/or mortgagees have the right to appeal and this is not a minor matter as it involves the 'title deeds' or ownership of the vessel. In one of its recommendations the Joint FAO/IMO Ad Hoc Working Group:

"(v) Agreed that it would be generally inadvisable to de-register a vessel that had failed to comply with the authorization to fish as this practice would have the effect of exporting the problem.

"It was acknowledged that such vessels are not going to disappear, they are just going to re-emerge under another 'flag of convenience'.

"...

"3. *Efforts to develop an international plan of action to address IUU fishing and efforts to coordinate its work with other international organizations, including IMO*

"FAO was mandated by the Committee on Fisheries at its twenty-third session in 1999 to develop an international plan of action to combat illegal, unreported and unregulated fishing. To this end FAO has taken steps to fulfil this mandate by:

- Consulting with regional fishery management organizations to review the activities they have taken to address IUU fishing;
- Cooperating with the Government of Australia in convening an expert consultation to identify suitable measures to combat IUU fishing;
- Convening a technical consultation on IUU fishing.

These steps have been undertaken sequentially with each step providing input for the next stage.

"After consulting with regional fishery management organizations concerning the extent and gravity of IUU fishing in their respective areas, the Government of Australia, in cooperation with FAO, convened an expert consultation on IUU Fishing in Sydney in May 2000. The purpose of the meeting was to consider all pertinent technical and legal issues relating to IUU fishing and to elaborate a preliminary draft of an IPOA to combat IUU fishing. The report of the Sydney Expert Consultation, which had appended a preliminary draft IPOA and which was entitled 'International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing', was disseminated to FAO members and the international community. The report of the Sydney meeting was also submitted to the FAO Technical Consultation on IUU Fishing that was held in Rome from 3 to 6 October 2000.

"The Technical Consultation agreed to use the Sydney text as the document on which to base negotiations. The Consultation made good progress towards the elaboration of an IPOA to combat IUU fishing despite the complex nature of the issues. However, it was not possible to complete a second reading of the text. Consequently, a Second Technical Consultation on IUU Fishing was scheduled at FAO headquarters from 22 to 23 February 2001 with a view to finalizing the draft IPOA. This was done and the draft IPOA to combat IUU fishing was submitted to COFI at its twenty-fourth session in February 2001.

"COFI considered the draft IPOA. All members supported the adoption of the draft IPOA-IUU while recognizing the important need to address IUU fishing in a broad and comprehensive manner. It was noted that the IPOA had been concluded within the framework of the Code of Conduct for Responsible Fisheries. The Committee further recognized that concerted efforts on the part of all members would be required to implement the IPOA.

"COFI acknowledged the important role that FAO should play in promoting the implementation of the IPOA, particularly in the provision of technical assistance to developing countries. Some members pointed out that funds would be required to facilitate implementation of the IPOA and it was proposed that FAO should consider providing Regular Programme funds for the purpose and seek extrabudgetary funding, as appropriate.

"The FAO Council at its one hundredth and twentieth session endorsed the IPOA on 23 June 2001. FAO will work to disseminate the IPOA and to facilitate its implementation. All States, irrespective of their role in the fisheries sector (coastal State, flag State or port State), individually and through their participation in regional fisheries management organizations, should strive to implement the IPOA and to combat IUU fishing. FAO is planning to promote the implementation of the IPOA in a number of different ways, including global and regional meetings, the implementation of national plans as called for in the IPOA and technical assistance to developing countries.

"COFI will monitor the implementation of the IPOA in relation to the Committee's deliberations relating to the implementation of the Code of Conduct for Responsible Fisheries. Currently, FAO members are pursuing a self-assessment process, but expanded or additional assessments might be developed later as a means of enhanced reporting and monitoring.

"...

"5. *Efforts to integrate in an appropriate manner the requirements for the protection of the marine environment in the management of straddling fish stocks and highly migratory fish stocks*

"In collaboration with regional tuna fishery management organizations and the Secretariat of the Pacific Community (SPC), FAO organized an Expert Consultation on Implications of the Precautionary Approach for Tuna Biological and Technological Research. The meeting was held in Phuket, Thailand, from 7 to 15 March 2000. The Consultation was mounted in response to the adoption of the precautionary approach to fisheries management in the 1995 Fish Stocks Agreement and the 1995 FAO Code of Conduct for Responsible Fisheries.

"The Consultation originated from a recommendation of the ICCAT Tuna Symposium held in Punta Delgada, Sao Miguel, Azores, Portugal, in 1996. The Symposium recognized the existence of similar research problems with the implementation of the precautionary approach to tuna fisheries management on a global scale.

"The Consultation addressed the implications of the precautionary approach for stock assessment, biological and environmental research and data collection. They apply to principal market tunas and most important billfishes. The Consultation addressed the need for the identification, quantification and reduction of major sources of uncertainties in the knowledge on species being targeted by fisheries, by-catch and ecologically-related species and on their physical environment, particularly on the impact of fisheries on them. This quantification and reduction of uncertainties necessitates improvements to the existing methods and the development of new methods. Reductions in the uncertainties may allow the adoption and implementation of safer and more optimal fishing regimes, potentially benefiting the industry and the community at large.

"The consideration by the Consultation of the implications of the precautionary approach for environmental research is of importance for the protection of the marine environment in the management of highly migratory fish stocks, as such research provides a basis for this protection. In particular, research on by-catches of fisheries targeting tunas and billfishes, and ecosystems involving those species, were discussed and relevant recommendations were made. The Consultation prepared a detailed technical paper published as FAO Fisheries Circular 963, which documents such discussions and recommendations. The report of the Consultation is included as an appendix to the Circular.

"..."

52. In its submission of 27 June 2001, **IMO** reported that the Maritime Safety Committee at its seventy-fourth meeting (MSC 74, 30 May-8 June 2001) had

considered the report of the ninth session of the IMO Subcommittee on Flag State Implementation (FSI), including its report on the outcome of the Joint FAO/IMO Working Group on IUU Fishing and related matters. In that connection, MSC 74 had made, inter alia, the following remarks: First, although fisheries management was outside the competence of IMO, safety and environmental protection issues relating to IUU fishing were within the purview of IMO and consideration of such issues would be of assistance to FAO. Secondly, efforts should be made to encourage member States to ratify the 1993 Protocol to the Torremolinos International Convention for the Safety of Fishing Vessels (1977) and the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) in order to bring them into force, in view of the fact that there was no legal basis for extending to fishing vessels the port State control provisions existing in IMO's instruments. Thirdly, cooperation should be extended to FAO towards developing a port State control regime of its own through a sharing of IMO's experience and expertise in the matter. Finally, there was a need, in the context of the outcome of the seventh session of the United Nations Commission on Sustainable Development, to establish principles against which the transfer of ships might be considered, upon the recognition that such transfer was also a problem in relation to IUU fishing activities.

53. In addition, IMO indicated that MSC 74 had decided to consider further, through the FSI Subcommittee, matters relating to IUU fishing in order to give member States the opportunity to clearly point out any relevant problems they had identified and to make specific proposals on actions requested of IMO. The Organization noted also that the Marine Environment Protection Committee at its forty-sixth session (MEPC 46, 23-27 April 2001) had decided to continue to provide input to the FSI Subcommittee's discussion on IUU fishing from the perspective of marine environmental protection, taking into account the current requirements under MARPOL 73/78 and its consideration of issues relating to particularly sensitive sea areas. In conclusion, IMO stated that its assistance to FAO in dealing with IUU fishing would be from the perspective of both the safety and the prevention of marine pollution from the vessels involved in such activity.

B. Regional and subregional fisheries organizations and arrangements[2]

54. In its reply of 7 March 2001, **The North Atlantic Salmon Conservation Organization (NASCO)** stated that while the Fish Stocks Agreement did not apply to salmon, it did contain provisions that could contribute to the international conservation and management of North Atlantic salmon. The Organization also welcomed the initiative by FAO to develop an IPOA to prevent, deter, and eliminate IUU fishing and was following the progress of the initiative.

55. In its response of 15 March 2001, the **International Council for the Exploration of the Sea (ICES)** reported that, as an intergovernmental organization responsible for coordinating research activities related to the sea and its living resources, principally in the North Atlantic and adjacent seas, it was responsible for giving advice to a number of regulatory commissions and to member countries in its field of competence. Thus, ICES provided advice on the management of straddling stocks to the North-East Atlantic Fisheries Commission (NEAFC). Such advice was published annually in the reports of the Advisory Committee on Fishery Management. ICES was not however involved in the implementation of regulatory measures.

56. In its submission of 24 April 2001, the **Indian Ocean Tuna Commission (IOTC)** stated that it had just concluded an inter-sessional meeting to elaborate an integrated control and inspection scheme. The meeting had identified the principles and objectives of the scheme and reached agreement on a number of elements that would need to be covered. The meeting, which was part of an ongoing process, had been conducted with direct reference to the 1995 Fish Stocks Agreement and the FAO IPOA on IUU fishing, and needed to be reconvened several more times before the scheme could be adopted by the Commission. In addition, the Commission had adopted a number of resolutions dealing with IUU fishing in which it invited non-Contracting Parties to join IOTC and called upon contracting and collaborating parties to adopt port State measures to combat IUU fishing.

57. IOTC also indicated that although it was aware of the need to address the issue of a genuine link between a fishing vessel and the flag State, no concrete action had yet been taken in this respect. The question would however have to be addressed in relation to the

allocation of resources, even where the flag States concerned were collaborating with IOTC in the provision of statistical data. Furthermore, although its own agreement did not currently provide the Commission with a mandate to address environmental concerns, IOTC had instructed its secretariat to collect statistical data on by-catch and discards, taking into account both physical and biological interactions linked to tuna fisheries. With regard to that topic, the only issue currently addressed by the Commission was the predation of longline-caught fish by cetaceans, on which it was conducting a study.

58. In its response of 16 May 2001, the **International Pacific Halibut Commission (IPHC)** stated that its mandate was research on, and management of, Pacific halibut throughout its range, which encompassed the majority of the maritime waters off the west coasts of Canada and the United States. Management of halibut, as a migratory and straddling stock, was jointly executed, through the Commission, by the two Governments. IPHC maintained an extensive data-gathering programme so that all removals were accounted for in stock assessment. The reduction of mortality of halibut in non-target fisheries was an ongoing programme of the Commission in conjunction with the Contracting Parties.

59. IPHC stressed that its harvest strategy was in conformity with the precautionary approach, since it had incorporated uncertainty in current and future stock status, target, and limit reference points. It noted that the near-shore distribution of the halibut resource and an effective monitoring/enforcement by the Contracting Parties had prevented IUU fishing. Moreover, the Commission had collaborated with agencies of the Contracting Parties in order to limit the effects of halibut fishery on the marine environment.

60. In its submission of 31 May 2001, **IATTC** stated that it had agreed in June 1998 to review its functions and to formulate, if necessary, possible amendments to its Convention. It also indicated that currently its members were negotiating a new Convention that would take into account, among other things, the relevant principles of international law related to the conservation and management of marine living resources, as reflected, inter alia, in the 1995 Fish Stocks Agreement. Although only one member of IATTC had ratified the Agreement, many of its key provisions had been incorporated into the draft negotiating text for the new IATTC Convention.

61. Although it had not been active in efforts to define the concept of a genuine link between the fishing vessel and the State whose flag it was flying, IATTC had been actively involved with other Governments and FAO in efforts to develop an IPOA to address IUU fishing. Moreover, the Commission had taken measures to combat IUU fishing in the eastern tropical Pacific Ocean, including the development of a Regional Register of vessels authorized to fish for species under its purview of and the setting up of a compliance committee that dealt with IUU fishing on a regular basis. It had also adopted in June 2000 a resolution regarding non-parties, which was intended to discourage IUU fishing.

62. In addition, in order to protect the marine environment, IATTC had formulated conservation and management measures for the two principal species currently managed by the Commission, i.e., yellowfin and bigeye tunas, which took into account the impact of these measures on all species of tuna in the same ecosystem. It had also adopted a resolution concerning by-catch that was designed to address ecosystem management by requiring specific measures to reduce the by-catch of species taken in the tuna purse seine fisheries.

63. In its reply of 4 June 2001, **NEAFC** reported that it had cooperated with ICES since 1999 under a Memorandum of Understanding that allowed the Commission to obtain the best scientific advice available for the full range of stocks over which it had competence, as the NEAFC Convention required it to seek information and advice from ICES.

64. In addition, the NEAFC Contracting Parties had agreed upon a Scheme of Control and Enforcement in respect of vessels fishing in areas beyond the limits of national fisheries jurisdiction in the Convention area and a scheme to promote compliance by non-Contracting Parties fishing in the regulatory area. Contracting Parties had further agreed that, as from 1 January 2000, satellite tracking of all vessels fishing outside areas of national jurisdiction in the North-East Atlantic Ocean would be required, and the secretariat would supply Contracting Parties with an inspection presence in the area with up-to-date information about ongoing fishing activities. The scheme also required vessels fishing in the regulatory area to keep a logbook

for recording catch, fishing effort and, as an option, the recording of discarded catch, and a production logbook to be used for fishing operations in international waters. Furthermore, the scheme mandated the Contracting Parties to notify the secretariat of their vessels authorized to fish in international waters. It also allowed the mutual inspection of Contracting Parties' fishing vessels.

65. NEAFC had not actively participated in attempts to define the concept of genuine link. However, surveillance was at such a level in the NEAFC regulatory area that most vessels fishing in the area were observed, including vessels from non-Contracting Parties, in order to combat IUU fishing. Moreover, the Commission had established relationships with cooperating non-Contracting Parties and had allocated to them in 2000 and 2001 cooperation quotas for some species. In other instances, it had had to draw the attention of flag States to their responsibilities with regard to the activities of vessels flying their flag in the NEAFC area. With respect to stateless vessels, the NEAFC scheme allowed a Contracting Party to board and inspect such vessels sighted engaging in fishing activities in the regulatory area, and where evidence so warranted, to take appropriate action against them in accordance with international law.

66. As to the integration of the requirements for the protection of the marine environment in the management of fisheries, NEAFC had not addressed those questions beyond the proper management of fisheries and their effect on fish abundance in the regulatory area, on the basis of ICES advice. However, it had informed Contracting Parties about the discussions at the Second Meeting of FAO and non-FAO Regional Fishery Bodies or Arrangements (Rome, 20-21 February 2001), which had called for a more integrated approach to the management of oceans and their resources.

67. In its submission of 5 June 2001, **CCAMLR** stated that, without prejudice to the question of whether the 1995 Fish Stocks Agreement was applicable to its Convention area, it had encouraged all Contracting Parties to examine the implications of the Agreement for themselves and for the Commission, and to consider becoming parties to it. CCAMLR had also encouraged its members to ratify and promote the FAO Compliance Agreement and the Code of Conduct for Responsible Fisheries.

68. Although the Commission had not been directly involved in activities relating to the definition of the concept of genuine link, its members had taken an active role in the development of the IPOA on IUU fishing, adopted by the COFI/FAO in March 2001. In addition, besides the introduction of a catch documentation scheme for toothfish, which was binding upon all Contracting Parties as from 7 May 2000, CCAMLR had adopted several measures to improve the enforcement of, and compliance with, its fisheries management regime. Such measures included the establishment of cooperative mechanisms between Contracting Parties to improve compliance with CCAMLR conservation measures, inspection by Contracting Parties of all their vessels licensed to fish in the Convention area, inspection of non-Contracting Party vessels in the ports of Contracting Parties, compulsory identification marking on vessels and fishing gear, further development of ties with non-Contracting Parties, and the introduction of a VMS in toothfish fisheries.

69. In an effort to integrate the requirements for the protection of the marine environment in its fisheries management, CCAMLR had adopted a resolution on the harvesting of stocks occurring both within and outside its Convention area (resolution 10/XII). The resolution reaffirmed the obligation of CCAMLR members to ensure that their flag vessels conducted harvesting of such stocks in areas adjacent to the Convention area responsibly and with due respect for the conservation measures provided for in the CCAMLR Convention.

70. In its submission of 5 June 2001, the **Forum Fisheries Agency (FFA)** stated that in order to implement the provisions of the 1995 Fish Stocks Agreement, FFA member countries and the fishing States in the region in September 2000 had adopted the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPT Convention). The Convention was a direct implementation of article 8 of the Agreement and was considered to be the third generation of international fisheries agreements. The object of the Convention was to ensure the long-term conservation and sustainable use of highly migratory fish stocks in the Western and Central Pacific Ocean in accordance with UNCLOS and the 1995 Fish Stocks Agreement. For these purposes, the Convention included reference to the precautionary approach, as

well as the obligation of the members of the Commission to apply the guidelines set out in Annex II of the Fish Stocks Agreement.

71. The WCPT Convention would generally apply to high seas areas, although a number of principles and measures for conservation would also apply within the exclusive economic zones of coastal States. In addition, it established a Commission, which had been granted the powers to determine the total allowable catch as well as the total fishing effort for the Convention area, including limits on tuna fishery in the region. It also established two subsidiary bodies, a Scientific Committee and a Technical and Compliance Committee, with distinct functions and roles to perform within the Commission.

72. The Convention would enter into force 30 days after the deposit of three instruments of ratification by States situated north of the 20-degree parallel of north latitude and seven States south of the 20-degree parallel of north latitude, with the Government of New Zealand as the depositary of the Convention. However, if by 5 September 2003 none of the northern States had ratified the Convention, it would then enter into force six months after the deposit of the thirteenth instrument of ratification. Currently, there were three ratifications, two of them by States south of the 20-degree parallel of north latitude.

73. In its submission of 12 June 2001, **ICCAT** reported that at its 12th Special Meeting in Marrakesh, Morocco, in November 2000, the Commission had, inter alia, urged all ICCAT Contracting Parties, that had not already done so to ratify the 1995 Fish Stocks Agreement and the 1993 FAO Compliance Agreement.

74. Concerning the issue of IUU fishing, ICCAT had taken numerous actions aimed at curbing the activities of vessels flying the flags of States which had no control over the activities of their vessels. To that end, it had adopted two plans of action aimed at reducing the fishing activities of vessels that undermined the effectiveness of the regulatory measures adopted by the Commission for bluefin tuna and swordfish respectively. In accordance with the action plans, flag States whose vessels did not comply with the regulatory measures were first identified. If no actions were taken to rectify such practices, the flag States would then be warned that non-discriminatory, trade-restrictive measures might be taken. If the warning was ignored, the Commission would recommend that Contracting Parties take non-discriminatory trade-restrictive measures against products derived from the species concerned from the infringing country. Such actions could also be taken against Contracting Parties whose vessels had fished in a manner inconsistent with the Commission's conservation and management measures.

75. With respect to the requirements for the protection of the marine environment as a component of fisheries management, ICCAT indicated that its Standing Committee on Research and Statistics had two subcommittees, on Environment and on By-Catch, which met annually to consider issues under their respective mandates.

76. In its reply of 27 June 2001, the **Permanent Commission for the South Pacific (CPPS)** indicated that it had already explained, in earlier submissions, why its member States had not acceded to the 1995 Fish Stocks Agreement. However, it wished to inform the Secretary-General that Chile, Colombia, Ecuador and Peru on 14 August 2000 had signed a Framework Agreement for the Conservation of Living Marine Resources in the High Seas of the South-East Pacific and that the Agreement had been submitted for adoption to the parliaments of those countries.

77. The Framework Agreement would be applied to straddling fish stocks and highly migratory fish stocks in the adjacent high seas areas in the South-East Pacific with a view to preventing the unregulated exploitation of those fishery resources, with due regard to the rights, interests and duties of coastal States as well as those of third States. In order to enhance the effectiveness of the Agreement, the Commission considered that the establishment of a genuine link between the fishing vessel and the flag State was a topic of special importance.

78. With regard to the issue of IUU fishing, CPPS stated that not only did such fishing practices seriously interfere with the assessment of fishing resources, but they also had an adverse impact on the management and development of fisheries. The Commission therefore attached great importance to addressing IUU fishing with a view to reducing and/or eliminating the practice.

79. Furthermore, the protection of the marine environment was a key issue in the region, particularly for the coastal marine areas. Accordingly, CPPS had already begun oceanographic explorations in the region

and was extending them into the high seas so that they would cover straddling fish stocks and highly migratory fish stocks.

80. In its response of 29 June 2001, **NAFO** stated that although its constituent bodies had not explicitly addressed the application of all the provisions of the 1995 Fish Stocks Agreement in the Convention area, some aspects of the Agreement, such as the question of transparency of activities and procedures allowing for the participation of non-governmental observers in NAFO meetings, the application of the precautionary approach to managed stocks and NAFO dispute settlement procedures, were being considered or were in the process of being addressed.

81. Concerning the issue of genuine link, NAFO pointed out that its conservation and enforcement measures contained a number of specific provisions related to the marking of fishing vessels and the documentation they were required to carry. NAFO Contracting Parties were also required to notify the Organization of all vessels greater than 50 GT engaged in fishing or processing fish in the regulatory area which were registered to a particular Contracting Party or were temporarily flying the flag of that Contracting Party (bareboat charter).

82. With respect to the issue of IUU fishing, NAFO had participated as an observer at the FAO consultations on IUU fishing in October 2000 and February 2001. Practical measures to tackle illegal activities in the regulatory area had been undertaken for a number of years within NAFO Conservation and Enforcement Measures, under which the Hail Reporting System Observer/Satellite Tracking System had recently been introduced to improve the control of fishing vessel activities and their catches. In addition, NAFO in 1997 had initiated the Scheme to Promote Compliance by Non-Contracting Party (NCP) Vessels with the Conservation and Enforcement Measures Established by NAFO. The scheme was amended in 1999 to include stateless vessels. In that connection, NAFO drew attention to the annual reports of its Standing Committee on Non-Contracting Parties, which in recent years had indicated a decline in NCP activity.

83. As to the integration of the protection of the marine environment in its fisheries management, NAFO in 1995 had established a Standing Committee on Fisheries Environment under its Scientific Council to undertake marine environmental studies in the Convention area. The Committee had made substantial progress in introducing environmental data into fish stock assessments.

84. In its submission of 17 July 2001, the **Commission for the Conservation of Southern Bluefin Tuna (CCSBT)**, stated that CCSBT members were conscious of the need to promote and facilitate international cooperation in order to ensure the sustainable development and use of highly migratory species such as southern bluefin tuna. It had therefore invited other States and fishing entities whose vessels were engaged in southern bluefin tuna fishing, or any other coastal State with an exclusive economic zone or fishery zone through which the species emigrated, to cooperate with the Commission's conservation and management measures or accede to the Convention.

85. CCSBT in June 2000 had established a Trade Information Scheme in order to combat IUU fishing. Under the scheme all imports of southern bluefin tuna into member States ought to be accompanied by a statistical document in the approved form and validated by the vessel's flag State. The implementation of the scheme had helped the Commission obtain important information on the sources of the southern bluefin tuna imported into CCSBT member States, and assisted it in developing further strategies for the effective conservation of the stock of southern bluefin tuna. The scheme was currently being refined.

86. In addition, CCSBT had adopted an action plan under which non-member States and fishing entities whose vessels had been catching southern bluefin tuna in a manner that diminished the effectiveness of the Commission's conservation and management measures would be identified and be subject to further action, including trade-restrictive measures, consistent with CCSBT members' obligations under international law. The Commission had the responsibility of the identification and notification of those countries, and their status would be reviewed in conformity with the action plan.

87. Concerning CCSBT efforts to integrate the requirements for the protection of the marine environment in the management of southern bluefin tuna, the Commission had taken action to protect the marine environment and, in particular, ecologically related species through, among other things, endorsement of guidelines for the design and use of

equipment to minimize the taking of seabirds in longlines and the development of a future work plan that would include consideration of the implementation of relevant international instruments, including the FAO IPOA on seabirds and sharks.

88. The **General Fisheries Commission for the Mediterranean (GFCM)** indicated that it had cooperated with ICCAT in controlling the level of stocks of large pelagic species in the Mediterranean Sea. Any conservative measures adopted by ICCAT concerning tuna and tuna-like species in the Mediterranean were reviewed by the Commission and generally adopted. A joint GFCM/ICCAT working group had been established to monitor stocks and recommend protection and management measures for both organizations.

89. In addition, GFCM noted that it had not taken any action on the definition of genuine link between a fishing vessel and its flag State. Nonetheless, GFCM, being a FAO regional fisheries management body, was bound by any arrangement that FAO might take with IMO and other international and regional bodies on the issue. Furthermore, the issue of IUU fishing in the Mediterranean Sea was a standing item in the agenda of GFCM, and a report on the state of such practice was presented by the secretariat at each session of the Commission.

90. Concerning the protection of the marine environment, GFCM in 1998 had established a Subcommittee on Marine Environment and Ecosystems. The latest recommendations of the Subcommittee included a programme of work to monitor the effects of environmental factors on the recruitment process in the case of shared stocks, the management and protection of species, as well as the enlargement of the FAO IPOA on sharks to cover cetaceans as well.

91. The **Secretariat of the Pacific Community (SPC)** reported that it had collaborated with FFA in maintaining the FFA Register of tuna fishing vessels operating in the region. Vessels which were not in good standing in the Register, irrespective of their flag, were not allowed to be licensed to fish anywhere in the FFA Convention area where it was necessary to obtain a licence. In that connection, SPC stressed that the countries of the region promoted the application of individual vessel owner responsibility in addition to flag State responsibility, and by applying conditional access to areas under national jurisdiction on the basis of conformity with international norms, they hoped to encourage compliance with those norms on the high seas areas within the region.

92. In addition, SPC indicated that while its role was to provide scientific support to national and regional tuna fishery management processes and management of reef fisheries in the Pacific Islands region, it had also assisted Pacific Island countries, through its Maritime Programme, in implementing domestic maritime legislation that incorporated international maritime standards. SPC had also urged member countries to take responsibility for vessels owned or operated by their nationals in areas under the national jurisdiction of other States.

93. As to the issue of IUU fishing, SPC pointed out that IUU fishing, as defined in the IPOA, did not present major difficulties for developing island member countries of SPC. For most of those countries, IUU fishing was currently interpreted as another synonym for "vessel owners trying to avoid standards relating to fishing on the high seas by taking the flag of a country with an open register". Defined that way, IUU fishing was not so great a problem in the region as trying to apply regional agreements on terms and conditions for fishing by vessels in areas under national jurisdiction. However, now that the problem had been recognized, those countries in the region that operated open registries and had previously been advised to operate "responsible open registries" would be requested to operate registries that did not allow vessel operators to evade fishing regulations, rather than to provide an alternative to the often high cost of registering under certain flags of origin.

94. With respect to the requirements for the protection of the marine environment in fisheries management, SPC was engaged in a number of initiatives on the subject, such as a public awareness-raising on the problems caused by marine debris, a proposal on measures to mitigate by-catch in small-scale domestic longline fisheries, assistance on the possible harmonization of regional measures concerning quantification and restriction of by-catch in access agreements for foreign tuna fleets, and modification of observer's training and logsheets to take by-catch more into account. Moreover, with the support of the Global Environment Facility and the European Commission, SPC was also engaged in research to elucidate the linkages between tropical tuna

fisheries and the broader supporting ecosystem, as well as on mechanisms for predicting areas and times of tuna abundance based on the state of the ecosystem and climatic cycles. In addition, it was developing its capacity to report on the status of certain species associated with highly migratory species and had just completed a quantification of turtle by-catch from tuna fisheries in Pacific Islands region, on the basis of the best available data.

95. The **International Baltic Sea Fishery Commission (IBSFC)** stated that it had amended its 1994 Fishery Rules to provide for better collaboration between Contracting Parties in order to combat IUU fishing. The changes included the possibility for Contracting Parties to exchange or transfer quotas among themselves or with third countries. However, Contracting Parties were under obligation to inform the Commission of such quota transfers or exchanges, including their specificities, the list of vessels authorized to fish cod in the Baltic Sea, monthly catch statistics from their own vessels (which had also to be communicated to other Contracting Parties) and monthly statistics on landings from other Contracting Parties. Moreover, the new regulations allowed a Contracting Party to refuse landings of cod that had been trans-shipped or species that had been caught by Contracting Parties beyond their national quota.

96. In addition, IBSFC indicated that it had agreed in 1999 on a Baltic Sea Control Strategy that provided for short-term and medium-term implementing measures. These included an improved inspection collaboration between neighbouring States, establishment of a register, the addition of a satellite tracking system to the current hail system, control of non-Contracting Parties, control of trans-shipments, the formulation of strategies for commercial species, establishment of an electronic network between Contracting Parties, computerization, including computerized data exchange, harmonization of logbooks, introduction of a uniform inspection form, and control of markets and structures. In the implementation of the short-term measures, a joint inspection programme was carried out during the period from 15 March to 15 April 2001 with the participation of inspectors from all Baltic Sea coastal States to examine, among other things, the effectiveness of the control and test a new uniform sea and port inspection scheme.

97. The **Western Central Atlantic Fishery Commission (WECAFC)** indicated that its member countries with small-scale fisheries in the region had initiated action to address the problems of IUU fishing through a vessel registration and licensing system that would be supported by a monitoring, control and surveillance system.

98. In addition, in view of the nature of the fisheries resources in the region (the majority of fish stocks being shared or straddling stocks) and its geographic and oceanographic characteristics, the Commission attempted to provide a coordinated approach to fisheries management in the region through regular meetings of the Commission, its Scientific Advisory Group and the WECAFC Ad Hoc Working Group on Shrimp and Groundfish on the Brazil-Guyana Shelf, the WECAFC Ad Hoc Working Group on Caribbean Spiny Lobster and the WECAFC Ad Hoc Working Group on Flying Fish.

C. Other intergovernmental organizations

99. In its submission of 29 June 2001, the **European Community** stated that although the 1995 Fish Stocks Agreement had not yet been ratified by the EC, its general principles were applied both in the Common Fisheries Policy and in the regional and international commitments of the Community. Moreover, the domestic procedures of member States were scheduled for completion by the end of 2001, so that the Community and its member States would be able to deposit their instruments of ratification simultaneously.

100. EC member States, as flag States, were subject to the Community resource conservation and management regulations under Council regulation (EEC) 3760/92 of 20 December 1992. Council Regulation (EC) 2848/2000 of 15 December 2000 had fixed for 2001 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters, and for Community vessels, in waters where catch limits were required. In addition, technical and monitoring measures in various regional fisheries organizations of which EC was a member, such as IATTC, ICCAT, IOTC and NEAFC, had already been or would soon be incorporated into Community law. In this connection, it should be noted that the CCAMLR catch documentation scheme had been approved by the Council in May 2001.

101. With respect to general and domestic control measures, Council regulation (EC) 2847/93 had

established a control system applicable to the Common Fisheries Policy, including surveillance of all catches and landings by Community fishing vessels. EC was also responsible for ensuring that its vessels operating outside its waters complied with applicable Community conservation rules in force in those waters. In addition, EC had adopted Council regulation (EC) 2846/98, which was designed to coordinate monitoring and surveillance systems for greater transparency in control systems, to improve the ability to track catches and to develop surveillance of vessels flying the flag of third States which operated in Community waters or landed their catches in Community ports. In 1999, the regulation was strengthened by Council regulation (EC) 1477/99, which established a list of the types of behaviour that constituted serious violations of the rules contained in the Common Fisheries Policy.

102. Concerning IUU fishing, the Community and its member States had actively participated in the efforts of FAO to develop an IPOA to combat IUU fishing, as well as in the meetings of FAO-IMO Joint Group of Experts. The elimination of illegal fishing was a priority for EC, as it considered that flags of convenience were detrimental to the conservation and sustainable management of fish stocks and that they constituted unfair competition for fishing vessels legally recorded in the Community fleet register. As a follow-up to the adoption of the IPOA by FAO, EC was going to draft a Community plan of action which would initially propose making information contained in its fleet register available to FAO under article VI of the Compliance Agreement and allow EC participation in the planned international monitoring network.

103. With regard to assistance to developing States required under part VII of the 1995 Fish Stocks Agreement, the Community and its member States had provided technical assistance to developing countries through the European Development Fund. For example, under the African, Caribbean and Pacific (ACP) Countries-European Union partnership agreement signed at Cotonou in June 2000, the Community would provide support for agricultural production strategies, national and regional food security policies, water resource management and the development of fisheries and marine resources in the exclusive economic zones of the ACP States.

104. With particular reference to fisheries, EC cooperation with developing countries was carried out within the framework of the Code of Conduct for Responsible Fisheries, with a focus on well-defined initiatives and taking into account the FAO cost-effectiveness factor intended to facilitate implementation of the Code in developing countries. The Community expressed the view that the guiding principles of its development policy were fully consistent with those of the Code, in that they stressed the need to involve civil society in the preparation and implementation of sustainable strategies that would affect it. Furthermore, EC would provide funding to the FAO Fisheries Global Information System (FIGIS) and Marine Resources Service (FIRM) project, which would provide better information on and assessment of stocks through, inter alia, data compilation.

105. With regard to the protection of the marine environment, EC intended to implement article 6 of the Amsterdam Treaty, which stipulated that environmental protection requirements ought to be integrated into the definition and implementation of Community policies and activities, including the Common Fisheries Policy, in particular with a view to promoting sustainable development. In that connection, the Council reiterated its resolve to incorporate environmental elements into the Common Fisheries Policy by, inter alia, adopting guidelines that emphasized the need for targeted reductions on fishing pressure, technical measures, improvement of scientific research and progress towards an ecosystem-based fisheries management. Those guidelines would be implemented progressively as part of the reform of the Common Fisheries Policy. In addition, a plan of action for fisheries biodiversity would be discussed at the next meeting of the Council. It would call for measures aimed at the conservation and sustainable management of stocks, the protection of habitats and non-target species from fishing activities and the reduction of their impact on the various ecosystems.

IV. Information provided by non-governmental organizations

106. In its response of 2 April 2001, the **International Ocean Institute (IOI)** indicated that the main obstacle to an effective implementation of the 1995 Fish Stocks Agreement would be IUU fishing, which was a complex and multifaceted issue involving quite a number of instruments and organizations, and that the most important obstacle to the effective suppression of IUU fishing was open registry.

107. IOI noted that open registry was a fact of life that would not go away. Together with "globalization", it had radically transformed the shipping industry. Thus, to seek to define today the "genuine link" seemed to be an academic exercise that could not really contribute to the elimination of IUU fishing. The Institute also pointed out that the prevalence of open registry and the demise of the "genuine link" meant, as a future trend, the end of "flag State control", and consequently, port State control and coastal control would necessarily fill the vacuum.

108. IOI was also of the view that the suppression of IUU fishing was an integral part of the suppression of crimes at sea in general, including piracy and armed robbery, as well as traffic in drugs, persons, noxious materials, etc. All these problems, which were currently addressed under different conventions, ought to be dealt with comprehensively, on a regional basis, through mechanisms to enhance regional cooperation among coastguards and navies, integrating sustainable development and regional security.

109. In its report of 25 June 2001, the **Humane Society of the United States** and its international arm the **Humane Society International (HSUS/HSI)** stated that they supported the moves towards encouraging States signatory to the 1995 Fish Stocks Agreement to ratify it in order to allow its entry into force and effective implementation as soon as practicable. In that connection, HSUS/HSI requested that developed States make adequate resources available to developing countries to facilitate full implementation of the Agreement by the latter, including through collaboration and cooperation in enforcement, monitoring and surveillance activities in regulated fisheries. However, they also urged the United Nations to ensure that the Agreement was interpreted or amended to allow it to be used for the establishment of regional fisheries management organizations to regulate fisheries wholly beyond national jurisdiction, since regulating fisheries in those areas had recently emerged as a significant management concern.

110. HSUS/HSI also expressed satisfaction at the adoption of the FAO IPOA to combat IUU fishing. It was pleased that the IPOA addressed not only the conservation of target fish stocks but also the conservation and management of related ecosystem elements, especially incidental mortality of seabirds associated with longline fishing, which was of considerable concern to HSUS/HSI. In addition, the Society encouraged the efforts of IMO, FAO and other relevant international organizations to address the problems associated with the failure to establish and enforce genuine link between ships and their flag States, creating the problem of the so-called "flag of convenience". The Society felt strongly that flag States ought to be committed to exercising their full jurisdiction in meeting all their responsibilities, not only their flag State responsibilities in combating IUU fishing. In particular, it was important for States to continue to develop their capacity to combat IUU fishing beyond the measures agreed on in the FAO IPOA, through the exercise of: (a) port State control, as a critical support for flag States attempting to exercise effective control over fishing vessels flying their flag; (b) market State responsibility, through restriction of the access of fish and fish products derived from IUU fishing to their markets, consistent with the relevant World Trade Organization rules; and (c) control over nationals through the introduction of domestic legislation that would ensure effective control over their fishing activities, including fish trading, whether conducted in areas under the jurisdiction of other States or on-board a vessel flying the flag of another State, or in areas beyond the jurisdiction of any State.

111. In addition, HSUS/HSI stressed the importance of encouraging cooperation between different international and regional organizations in order to integrate the requirements for the protection of the marine environment in the management of straddling fish stocks and highly migratory fish stocks. In that connection, the Society drew attention to: (a) the capacity of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to complement fisheries management measures where trade in fish and fish products from IUU fishing was deemed to undermine the sustainable management of a fishery; (b) the capacity of the Bonn Convention on the Conservation of Migratory Species also to complement fisheries management; and (c) the measures taken by CCAMLR to manage toothfish as a straddling fish stock and the evolution of IUU fishing to combat rogue operators within the CCAMLR regulatory area. In that connection, particular reference was made to article II of CCAMLR, as an excellent policy framework for the ecologically sustainable management of fisheries, and to the CCAMLR catch documentation scheme to assist in monitoring the trade in toothfish.

V. Concluding remarks

112. A review of various submissions by States, relevant United Nations agencies, regional fisheries organizations and arrangements and other intergovernmental organizations indicates that genuine efforts were being made to implement the 1995 Fish Stocks Agreement, in particular its key provisions, even before its entry into force. Another significant element is that such implementation involves not only States that had ratified/acceded to the Agreement but also some of those States that had expressed reservations over some aspects of the instrument.

113. In addition, as a result of the calls by the General Assembly and those of other international forums where fisheries issues had been discussed over the past six years, the Agreement is expected to enter into force in the very near future. Entry into force of the Agreement will necessarily create a new situation with a number of important implications for all States invited by the General Assembly for the first time in resolution 50/24 of 5 December 1995 to provide information to the Secretary-General on developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

114. While non-States parties will continue to submit information to the Secretary-General on a voluntary basis on developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks pursuant to resolution 50/24, States parties may wish to review the role of the current report of the Secretary-General, including an analysis of the most appropriate format and substantive aspects of the report that would assist States in discharging their obligations to ensure compliance with all the provisions of the Agreement. States may thus wish to decide whether the report of the Secretary-General, which at present merely informs on developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, should evolve into one that monitors compliance with the Agreement. States may also wish to decide whether a meeting of the States parties to the Agreement would be necessary to consider all these issues.

115. However, it should be noted that the 1995 Fish Stocks Agreement does not provide for institutional mechanisms allowing States parties to address specific issues which may arise with respect to the implementation of the Agreement, nor does it give a mandate to the Secretary-General, as depositary, to convene meetings of States parties to monitor the application of and compliance with the Agreement.

116. It is significant to note that article 36 of the 1995 Fish Stocks Agreement does require the Secretary-General to convene a review conference four years after the date of entry into force of the Agreement, with a view to assessing the effectiveness of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks. The Agreement, however, does not make provision for any preparatory steps, either administrative or substantive, that may need to be taken in the preparation of such conference. Accordingly, States may wish, as a first step, to request the Secretary-General, once the Agreement is in force, to convene meetings of States parties to address all the various issues of importance for States with rights and obligations under the Agreement, and to prepare for the review conference.

Notes

[1] Submission received through the Economic and Social Commission for Western Asia.

[2] Reports were sent either directly to the Secretary-General or conveyed to the Secretary-General through FAO.

Annex

Status of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (as at 14 September 2001)

States and one entity that have signed the Agreement (59)

Argentina, Australia, Austria, Bangladesh, Belgium, Belize, Brazil, Burkina Faso, Canada, China, Côte d'Ivoire, Denmark, Egypt, Fiji, Finland, France, Gabon, Germany, Greece, Guinea-Bissau, Iceland, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Luxembourg, Maldives, Marshall Islands, Mauritania, Micronesia (Federated States of), Morocco, Namibia, Netherlands, New Zealand, Niue, Norway, Pakistan, Papua New Guinea, Philippines, Portugal, Republic of Korea, Russian Federation, Saint Lucia, Samoa, Senegal, Seychelles, Spain, Sri Lanka, Sweden, Tonga, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu and European Union

States that have ratified or acceded to the Agreement (29)

Australia, Bahamas, Barbados, Brazil, Canada, Cook Islands, Costa Rica, Fiji, Iceland, Iran (Islamic Republic of), Maldives, Mauritius, Micronesia (Federated States of), Monaco, Namibia, Nauru, New Zealand, Norway, Papua New Guinea, Russian Federation, Saint Lucia, Samoa, Senegal, Seychelles, Solomon Islands, Sri Lanka, Tonga, United States of America and Uruguay

States that have agreed to a provisional application of the Agreement (0)